

FOURTH REPORT

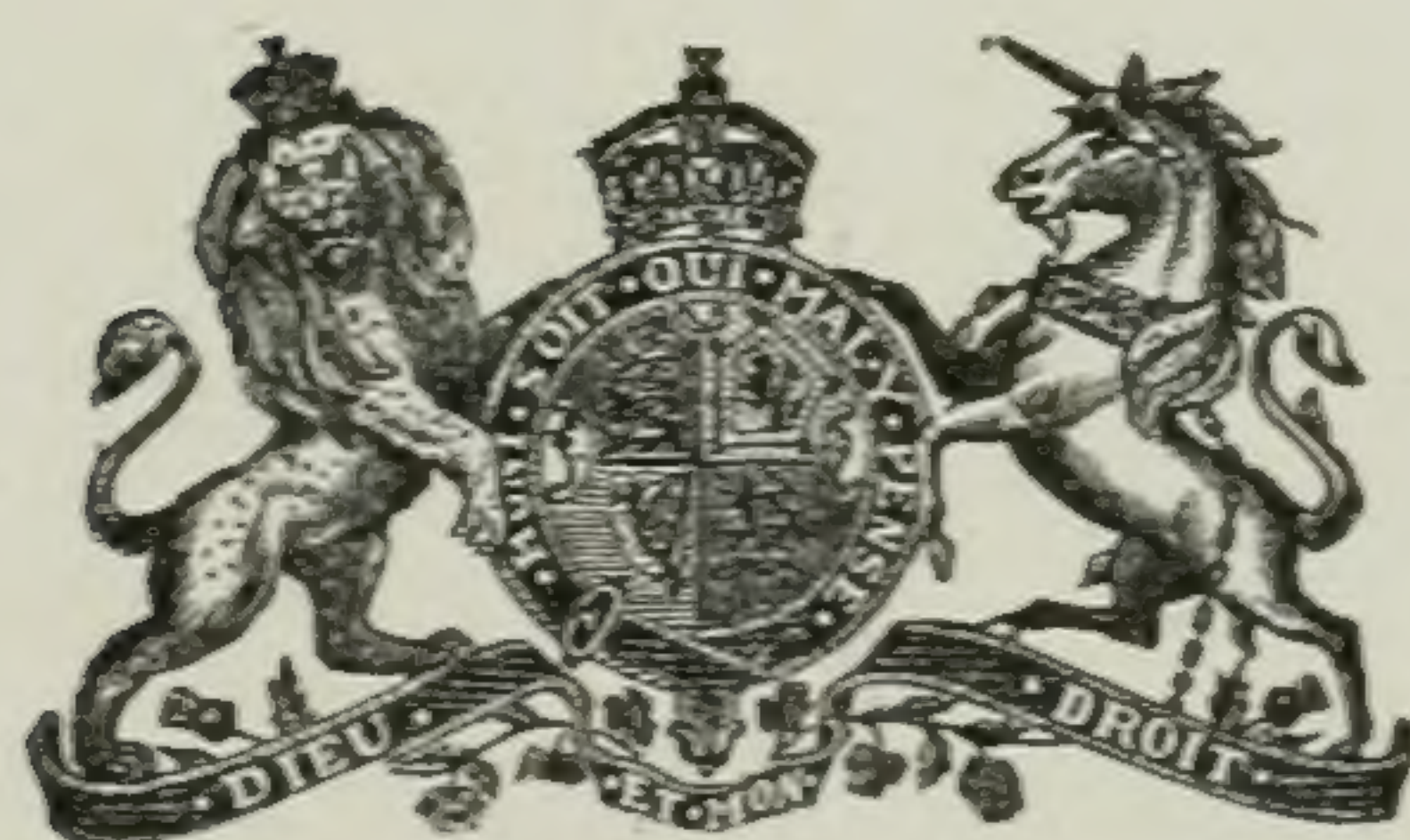
OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA

FOR THE YEAR ENDING MARCH 31

1909

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

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EXCELLENT MAJESTY

1909

BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Hon. J. P. MABEE, Chief Commissioner.

D'ARCY SCOTT, Assistant Chief Commissioner.

Hon. M. E. BERNIER, Deputy Chief Commissioner.

JAS. MILLS, Commissioner.

S. J. McLEAN, Commissioner.

A. D. CARTWRIGHT, *Secretary.*

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REPORT

OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA

OTTAWA, March 31, 1909.

To His Excellency the Governor in Council.

Pursuant to the provisions of section 62 of the Railway Act, the Board of Railway Commissioners for Canada has the honour to submit its fourth report for the year ending March 31, 1909.

Since the submission of the Board's last report, the Railway Act has been amended in certain important particulars under and by virtue of chapter 61-7-8, Edward VII., entitled 'An Act to amend the Railway Act with respect to telegraphs and telephones and the jurisdiction of the Board of Railway Commissioners'; and also by chapter 62-7-8, Edward VII. of the Dominion statutes, entitled 'An Act to amend the Railway Act with respect to the constitution of the Board of Railway Commissioners.'

The following are the amendments above referred to:—

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Chap 61.

An Act to amend the Railway Act with respect to Telegraphs and Telephones and the jurisdiction of the Board of Railway Commissioners.

Assented to 20th July, 1908.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

PART I.

1. In this part, unless the context otherwise requires.—

(a) 'Board' means the Board of Railway Commissioners of Canada;

(b) 'company' means a railway company or person authorized to construct or operate a railway, having authority to construct or operate a telegraph or telephone system or line, and to charge telegraph or telephone tolls, and includes also telegraph and telephone companies and every company and person within the legislative

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authority of the Parliament of Canada having power to construct or operate a telegraph or telephone system or line, and to charge telegraph or telephone tolls;

(c) 'special Act' means any Act under which the company has authority to construct or operate a telegraph or telephone system or line, or which is enacted with special reference to any such system or line, and any letters patent constituting a company's authority to construct or operate a telegraph or telephone system or line, granted under any Act, and the Act under which such letters patent were granted, and includes The Telegraphs Act and any general Act relating to telegraphs or telephones;

(d) 'telegraph' includes wireless telegraph;

(e) 'telegraph toll' means and includes any toll, rate or charge to be charged by the company to the public or to any person for the transmission of messages by telegraph.

2. The board shall have jurisdiction to inquire into, hear and determine any application by or on behalf of any party interested complaining that any company or person has failed to do any act, matter or thing required to be done by The Railway Act or this Part or the special Act, or by any regulation, order or direction made thereunder by the Governor in Council, the Minister, the Board or any other authority, or that any company or person has done or is doing any act, matter or thing contrary to or in violation of The Railway Act or this Part or the special Act, or any such regulation, order or direction, or requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to make or give, or with respect to any matter, act or thing which by The Railway Act or this Part or the special Act or by any such regulation, order or direction is prohibited, sanctioned or required to be done.

2. The Board may order and require any company or person to do forthwith, or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with The Railway Act or this Part or the special Act, any act, matter or thing which such company or person is or may be required or authorized to do under the said Acts or any of them or this Part, and may forbid the doing or continuing of any act, matter or thing which is contrary to the said Acts or any of them or this Part; and shall, for the purposes of this Part, have full jurisdiction to hear and determine all matters whether of law or of fact.

3. The Board may make orders and regulations with respect to any matter, act or thing which by The Railway Act or this Part or the special Act is sanctioned or required to be done or prohibited, and generally for carrying the said Acts and this Part into effect

2. The Board may, by regulations, prescribe penalties when not prescribed by the Railway Act or this Part or the special Act, to which every company or person which or who offends against any regulation made under this section shall be liable; provided that no such penalty shall exceed one hundred dollars.

3. The imposition of any such penalty shall not lessen or affect any other liability which any company or person may have incurred.

4. Notwithstanding anything in any Act heretofore passed by Parliament, all telegraph and telephone tolls to be charged by the company shall be subject to the approval of the Board.

2. The company shall file with the Board tariffs of any telegraph or telephone tolls to be charged, and such tariffs shall be in such form, size and style and give such information, particulars and details as the Board, from time to time, by regulation, or in any particular case, prescribes, and the company shall not charge, and shall not be entitled to charge, any telegraph or telephone toll in respect of which there is default in such filing, or which is disallowed by the Board; provided that any company, previous to the first day of May, one thousand nine hundred and eight, charging telegraph or telephone tolls may, without such filing and approval, for a

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period of four months after this Part comes into force, or for such further period as the Board allows, charge such telegraph or telephone tolls as such company was immediately previous to the said date authorized by law to charge, unless in the meantime the Board in the case of any company disallows any of such tolls.

3. Such telegraph and telephone tariffs may be dealt with by the Board in the same manner as is provided by The Railway Act, with respect to standard freight tariffs; and all the provisions of The Railway Act, except as to publication under section 339 thereof, applicable to companies thereunder with respect to standard freight tariffs and tolls, shall, in so far as they are applicable and not inconsistent with this Act, apply to the company with respect to such telegraph and telephone tariffs and tolls.

4. The Board may, by regulation or otherwise, determine and prescribe the manner and form in which any tariff or tariffs of telegraph or telephone tolls shall be published or kept open for public inspection.

5. When ever any company or any province, municipality or corporation, having authority to construct and operate, or to operate, a telephone system or line and to charge telephone tolls, whether such authority is derived from the Parliament of Canada or otherwise, is desirous of using any long-distance telephone system or line owned, controlled or operated by any company, in order to connect such long-distance telephone system or line with the telephone system or line operated or to be operated by such first mentioned company or by such province, municipality or corporation for the purpose of obtaining direct communication, whenever required, between any telephone or telephone exchange on the one telephone system or line and any telephone or telephone exchange on the other telephone system or line, and cannot agree with the company with respect to obtaining such use, connection or communication, such first mentioned company or province, municipality or corporation may apply to the Board for relief, and the Board may order the company to provide for such use, connection or communication, upon such terms as to compensation as the Board deems just and expedient, and may order and direct how, when, where, by whom, and upon what terms and conditions such use, connection or communication shall be had, constructed installed, operated and maintained.

6. Upon any such application the Board shall, in addition to any other consideration affecting the case, take into consideration the standards, as to efficiency and otherwise, of the apparatus and appliances of such telephone systems or lines, and shall only grant the leave applied for in case and in so far as, in view of such standards, the use, connection or communication applied for can, in the opinion of the Board, be made or exercised satisfactorily and without undue or unreasonable injury to or interference with the telephone business of the company.

7. Where the telephone system or line operated by the company is used or connected, for purposes of communication as aforesaid, with the telephone system or line operated by another company or by any such province, municipality or corporation, whether the authority of such province, municipality or corporation to construct and operate or to operate such telephone system or line is derived from the Parliament of Canada or otherwise, and whether such connection or communication has been previously or is hereafter established either by agreement of the parties or under an order of the Board, the provisions of The Railway Act with respect to joint tariffs, in so far as they are applicable and not inconsistent with this part or the special Act, shall apply to such company or companies and to such province, municipality or corporation; and the Board shall have, for the enforcement of its orders in this respect, in addition to all other powers possessed by it therefor, the power to order a discontinuance of such connection or communication between such different telephone systems or lines.

8. All contracts, agreements and arrangements between the company and any other company, or any province, municipality or corporation having authority to construct or operate a telephone system or line, whether such authority is derived from

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the Parliament of Canada or otherwise, for the regulation and interchange of telephone messages or service passing to and from their respective telephone systems and lines, or for the division or apportionment of telephone tolls, or generally in relation to the management, working or operation of their respective telephone systems or lines, or any of them, or any part thereof, or of any other systems or lines operated in connection with them or either of them, shall be subject to the approval of the Board, and shall be submitted to and approved by the Board before such contract, agreement or arrangement shall have any force or effect.

5. The several provisions of The Railway Act with respect to the jurisdiction of the Board, practice and procedure upon applications to the Board, appeal to the Supreme Court or the Governor in Council, offences and penalties, and the other provisions of the said Act (except sections 9, 79 to 243, both inclusive, 250 to 289, both inclusive, 294 to 314, both inclusive, 348 to 354, both inclusive, 361 to 396, both inclusive, 405 to 431, both inclusive), in so far as reasonably applicable and not inconsistent with this part or the special Act, shall apply to the jurisdiction of the Board and the exercise thereof, created and authorized by this Act, and for the purpose of carrying into effect the provisions of this Part according to their true intent and meaning and shall apply generally to companies within the purview of this Part.

2. In and for the purposes of such application:—

(a) 'company' shall mean a company as above defined;

(b) 'railway' shall mean all property real and personal and works forming part of or connected with the telegraph or telephone system or line of the company;

(c) 'toll' or 'rate' shall mean telegraph or telephone toll;

(d) 'traffic' shall mean the transmission and other dealings with telegraphic and telephonic messages.

6. Sections 355 to 360 of The Railway Act, both inclusive, are repealed.

7. This Part shall come into force upon proclamation of the Governor in Council.

PART II.

8. The Railway Act is amended by inserting the following section immediately after section 26:—

26A. Where it is complained by or on behalf of the Crown or any municipal or other corporation or any other person aggrieved, that any company has violated or committed a breach of an agreement between the complainant and the company—or by any company that any such municipal or other corporation or person has violated or committed a breach of an agreement between the company and such corporation or person,—for the provision, construction, reconstruction, alteration, installation, operation, use or maintenance by the company, or by such municipal or other corporation or person, of any structure, appliance, equipment, works, renewals or repairs upon or in connection with the railway of the company, the Board shall hear all matters relating to such alleged violation or breach, and shall make such order as to the Board may seem, having regard to all the circumstances of the case, reasonable and expedient, and in such order may in its discretion direct the company, or such municipal or other corporation or person, to do such things as are necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as constitute a violation or a breach thereof.

'2. The Board may take such steps and employ such persons as are necessary for the proper enforcement of such order, and in pursuance thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the railway, and the real and personal property of the company, together with its books and offices, and may, until such order has been enforced, assume and take over all or any of the powers, duties, rights and functions of the directors and officers of the company, and supervise and direct the management of the company and its railway in all respects, including

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the employment and dismissal of officers and servants of the company for such time as the Board continues to direct such management.

‘3. Upon the Board so taking possession of the railway and property of the company, it shall be the duty of every officer and employee of the company to obey the orders of the Board or such person or persons as it places in authority in the management of any or all departments of the railway.

‘4. The Board may, upon so taking possession of such railways and property, determine, receive and pay out all moneys due to or owing by the company, and give cheques, acquittances and receipts for moneys to the same extent and in as full and ample a manner as the proper officers of such company could do if no such order as aforesaid had been made.

‘5. Cheques, acquittances or receipts so given by the Board shall be a defence to any action that may afterwards be brought by the company against the persons paying over the money for which such cheques, acquittances or receipts were given.

‘6. The Board and the members thereof, and its officers and employees, shall not be liable to any action for any act done by them under the authority of this section.

‘7. The cost and expenses of and incidental to proceedings to be taken by the Board under this section shall be in the discretion of the Board, and Board may direct by whom and to what extent they shall be paid.

‘8. The certificate of the Board as to the amount of such costs and expenses shall be final.’

9. Paragraph (30) of section 2 of the said Act is repealed and the following is substituted therefor:—

‘(30) ‘toll’ or ‘rate’ means and includes any toll, rate, charge or allowance charged or made either by the company, or upon or in respect of a railway owned or operated by the company, or by any person on behalf or under authority or consent of the company, in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of a carrier; and includes also any toll, rate, charge or allowance so charged or made in connection with rolling stock, or the use thereof, or any instrumentality or facility of carriage, shipment or transportation, irrespective of ownership or of any contract, expressed or implied, with respect to the use thereof; and includes also any toll, rate, charge or allowance so charged or made for furnishing passengers with beds or berths upon sleeping cars, or for the collection, receipt, loading, unloading, stopping-over, elevation, ventilation, refrigerating, icing, heating, switching, ferriage, cartage, storage, care, handling or delivery of, or in respect of, goods transported, or in transit, or to be transported; and includes also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharriage or demurrage or the like, or so charged or made in connection with any one or more of the above-mentioned objects, separately or conjointly.’

10. Section 284 of the said Act is amended by adding at the end thereof the following subsection:—

‘8. The Board may make regulations, applying generally or to any particular railway or any portion thereof, imposing charges for default or delay by any company in furnishing accommodation, appliances, or means as aforesaid, or in receiving, loading, carrying, unloading or delivering traffic, and may enforce payment of such charges by companies to any person injuriously affected by such default or delay; and any amount so received by any person shall be deducted from the damages recoverable or recovered by such person for such default or delay; and the Board may, by order or regulation, determine what circumstances shall exempt any company from payment of any such charges.’

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11. Section 314 of the said Act is repealed and the following is substituted therefor:—

‘314. The company, or the directors of the company, by by-law, or any officer of the company thereunto authorized by by-law of the company or directors, may from time to time prepare and issue tariffs of the tolls to be charged in respect of the railway owned or operated by the company, and may specify the persons to whom, the place where and the manner in which such tolls shall be paid.

‘2. The tolls may be either for the whole or for any particular portion of the railway.

‘3. All such by-laws shall be submitted to and approved by the Board.

‘4. The Board may approve such by-laws in whole or in part, or change, alter or vary any of the provisions therein.

‘5. No tolls shall be charged by the company or by any person in respect of a railway or any traffic thereon until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by, the Board; nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board; nor shall the company charge, levy or collect any toll or money for any service as a common carrier, except under the provisions of this Act.

‘6. The Board may, with respect to any tariff of tolls, other than the passenger and freight tariffs in this Act hereinafter mentioned, make regulations fixing and determining the time when, the places where, and the manner in which, such tariffs shall be filed, published and kept open for public inspection.’

12. Section 237 of the said Act is amended by inserting the words ‘the railway be carried over or under the highway or that,’ immediately after the word ‘that’ in the fourth line of subsection 2 of the said section, and by inserting the words ‘the railway to be carried over or under the highway or’ immediately after the word ‘orders’ in the first line of subsection 5 of the said section.

13. Section 241 of the said Act is amended by inserting the words ‘by which any railway is carried over or under any highway or’ immediately after the word ‘structure’ in the first line of the said section.

7-8 EDWARD VII.

CHAPTER 62.

An Act to amend the Railway Act as respects the constitution of the Board of Railway Commissioners.

(Assented to July 29, 1908).

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection 1 of section 10 of The Railway Act, chapter 37 of the Revised Statutes, 1906, is repealed and the following subsection is substituted therefor:—

‘10. There shall be a commission known as the Board of Railway Commissioners for Canada, consisting of six members appointed by the Governor in Council.’

2. Subsection 5 of the said section 10 is repealed and the following is substituted therefor:—

5. One of such commissioners shall be appointed by the Governor in Council, chief commissioner, and another of them assistant chief commissioner of the Board.

(a) Any person may be appointed chief commissioner or assistant chief commissioner who is or has been a judge of a superior court of Canada or of any province of

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Canada, or who is a barrister or advocate of at least ten years' standing at the bar of any such province.

(b) The chief commissioner shall be entitled to hold the office of chief commissioner, and the assistant chief commissioner the office of assistant chief commissioner or that of chief commissioner, so long as they respectively continue to be members of the Board.

(c) The assistant chief commissioner shall have all the powers of the chief commissioner; but such powers shall not be exercised by him except in the absence of the chief commissioner, and whenever he has acted it shall be conclusively presumed that he so acted in the absence or disability of the chief commissioner within the meaning of this section.'

3. Section 12 of the said Act is repealed and the following is substituted therefor:—

12. In case of the absence of the chief commissioner and the assistant chief commissioner, or of their inability to act, the deputy chief commissioner shall exercise the powers of the chief commissioner for him or in his stead, and in such case, all regulations, orders and other documents signed by the deputy chief commissioner shall have the like force and effect as if signed by the chief commissioner.

'2. Whenever the deputy chief commissioner appears to have acted for or instead of the chief commissioner, it shall be conclusively presumed that he so acted in the absence or disability of the chief commissioner and of the assistant chief commissioner within the meaning of this section.'

4. Section 13 of the said Act is repealed and the following is substituted therefor:—

13. Two commissioners shall form a quorum, and not less than two commissioners shall attend at the hearing of every case: Provided that

(a) in any case where there is no opposing party and no notice to be given to any interested party, any one commissioner may act alone for the Board; and

'(b) the Board, or the Chief Commissioner, may authorize any one of the Commissioners to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such commissioner shall have all the powers of two commissioners sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper.

'2. The chief commissioner, when present, shall preside, and the assistant chief commissioner, when present, in the absence of the chief commissioner, shall preside, and in the opinion of either of them upon any question arising when he is presiding, which in the opinion of the commissioners is a question of law, shall prevail.

'3. No vacancy in the Board shall impair the right of the remaining commissioners to act.'

5. Section 15 of the said Act is repealed, and the following is substituted therefor:—

'15. No commissioner or officer of the Board shall, directly or indirectly,—

'(a) hold, purchase, take or become interested in, for his own behalf, any stock, share, bond, debenture or other security, of any railway company subject to this Act; or,—

'(b) have any interest in any device, appliance, machine, patented process or article, or any part thereof which may be required or used as a part of the equipment of railways or of any rolling stock to be used thereon.

'2. If any such stock, share, bond or other security, device, appliance, machine, patented process or article or any part thereof or any interest therein, shall come to or vest in any commissioner or officer of the Board by will or succession for his own benefit, he shall, within three months thereafter, absolutely sell and dispose of the same or his interest therein.'

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6. The said Act is amended by inserting the following section immediately after section 19:—

‘19A. The Board may hold more than one sitting at the same time.’

7. Section 18 of the said Act is amended by adding thereto the following subsection:—

‘2. The Governor in Council, upon the recommendation of the Minister, may establish at any place or places in Canada such office or offices as are required for the Board, and may provide therefor the necessary accommodation, furnishings, stationery and equipment.’

8. Section 29 of the said Act is repealed, and the following is substituted therefor:—

‘29. The Board may re-hear any application before deciding it, or may review, rescind, change, alter, or vary any order of decision made by it.’

9. Subsection 1 of section 35 of the said Act is repealed, and the following is substituted therefor:—

‘35. The chief commissioner shall be paid an annual salary of ten thousand dollars, the assistant chief commissioner an annual salary of nine thousand dollars, and each of the other commissioners an annual salary of eight thousand dollars.’

10. The said Act is amended by inserting the following section immediately after section 41:—

41a. There shall be kept in the office of the secretary of the Board a book, to be called the agents’ book, in which every railway company to which this Act in whole or in part applies, shall enter its name and the place of its head office, and the name of an agent at Ottawa and his place of business or some other proper place within Ottawa where he may be served for the company with any notice, summons, regulation, order, direction, decision, report or other document.

‘2. Service on the company may be effected, unless the Board otherwise directs, by delivering the documents or a copy thereof to the person entered by the company as its agent or at its place of residence, or to any member of his household, or at his place of business, or such other place as aforesaid, to any clerk or adult person in his employ.

‘3. Where at the time of attendance to serve any document the place of business or other place aforesaid is closed or no one is in attendance therein for receiving service, service of the document may be effectively made by mailing the same at any time during the same day, addressed to the agent at such place of business or other place, by registered letter, postage prepaid, and the service shall be deemed to have been effected at the time of attendance for service.

‘4. Where any such company has not caused the required entry to be made in the agents’ book the posting up of the document to be served in the office of the secretary of the Board shall be effective service upon the company unless the Board otherwise directs.

‘5. The Board may in any case give directions that the fact of service upon an agent and the nature of the document served shall be communicated to the company by telegraph.’

11. Section 62 of the said Act is repealed and the following is substituted therefor:—

62. The Board shall within three months after the thirty-first day of March in each year, make to the Governor in Council through the Minister, an annual report, for the year next preceding the thirty-first day of March, showing briefly:—

(a) applications to the Board and summaries of the findings thereon under this Act;

(b) summaries of the findings of the Board in regard to any matter or thing respecting which the Board has acted of its own motion, or upon the request of the Minister;

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(c) such other matters as appear to the Board to be of public interest, in connection with the persons, companies and railways, subject to this Act; and

(d) such matters as the Governor in Council directs.

'2. The said report shall be laid before both Houses of Parliament during the first fifteen days of the then next session of Parliament.'

PRACTICE AND PROCEDURE.

Several changes and alterations have been made in the Rules and Regulations of the Board and among the more important changes are the following:—

Rule 1 is rescinded and the following substituted therefor:—

1. Regular sittings of the Board will be held at the Court Room, Ottawa, at 10 a.m., on the first Tuesday of every month, for the hearing of matters, applications or complaints.

(a) In addition to its regular sittings, the Board may appoint special sittings at Ottawa or elsewhere.

7. Rule 7 is amended by adding thereto the following:—

'7. (a) Any party to any matter, application or complaint pending before the Board may set the same down for hearing at the next monthly sitting of the Board, upon giving at least ten days, or such shorter notice as the Board may order, to all parties interested.

(b) When contested matters, applications or complaints are ready for hearing, and are not at once set down by any party interested, the Secretary shall set the same down for the first sittings commencing after the expiration of ten days (or such shorter notice as the Board may order) from the date of such setting down.

(c) When a matter, application or complaint is set down for hearing by the Secretary, he shall give ten days' notice of hearing (or such shorter time as the Board may order) to all parties interested.'

GENERAL REGULATIONS AFFECTING HIGHWAY CROSSINGS.

1. That, unless otherwise ordered by the Board, the width of approaches to rural railway crossings over highways be twenty feet road surface on concession and main roads and sixteen feet on side and bush roads.

2. That a strong, substantial fence or railing, four feet six inches high, with a good post-cap (four inches by four inches), a middle piece of timber (1½ inches by 6 inches), and a ten-inch board firmly nailed to the bottom of the posts to prevent snow from blowing off the elevated roadway, be constructed on each side of every approach to a rural railway crossing where the height is six feet or more above the level of the adjacent ground—leaving always a clear road-surface twenty feet wide.

3. That the width of approaches to rural railway crossings made in cuttings be not less than twenty feet clear from bank to bank.

4. That, unless otherwise ordered by the Board, the planking or paving blocks or broken stone topped with crushed rock screenings, on rural railway crossings over highways (between the rails and for a width of at least eight inches on the outer sides thereof) be twenty feet long on concession and main roads and sixteen feet on side and bush roads.

The Rules and Regulations sanctioned by the Board will be found in Appendix H.'

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PUBLIC SITTINGS OF THE BOARD.

Public Sittings of the Board between April 1, 1908, and March 31, 1909.

Province of Ontario—

Chatham—October 20, 21.

Fort William—July 21.

Grimsby—February 12, 1909.

Hamilton—October 13.

London—February 25, 1909.

Ottawa—April 9, 22, 23, 24; May 5; June 2, 4, 18, 23, 24; July 14, 15; September 1, 2, 3; October 6, 7, 8; November 3, 4, 19; December 1; January 5, 11, 12, 13, 1909; February 2, 16, 1909; March 9, 18, 1909.

Toronto—May 18, 19, 20, 21; November 10, 11, 12, 13; December 7, 8, 9, 10, 11, 14, 15, 16, 17, 18; January 14, 15, 27, 28, 1909.

Province of Quebec—

Montreal—May 12, 13; December 22, 23; January 5, 6, 7, 8, 1909.

Sherbrooke—March 19, 1909.

Province of New Brunswick—

St. John—January 18, 19.

Province of Manitoba—

Winnipeg—September 14, 15, 16, 17; February 1, 2, 3, 4, 5, 6, 8, 9, 1909; March 10, 11, 1909.

Province of Saskatchewan—

Regina—February 11, 12, 1909.

Saskatoon—September 23.

Province of Alberta—

Calgary, February 17, 18, 1909.

Edmonton—February 19, 20, 1909.

Lethbridge—March 8, 1909.

Medicine Hat—February 15, 1909.

Province of British Columbia—

Nelson—March 5, 1909.

Vancouver—February 23, 24, 25, 1909.

Victoria—February 27, 1909.

Vancouver—February 27, 1909.

The total number of public sittings was 99, at which 736 applications were heard. A list of which will be found in Appendix 'C.'

Among the more important matters dealt with by the Board at the Sittings above mentioned, special attention might be directed to the following:—

UNIFORM BILL OF LADING.

This important matter has received the further consideration of the Board and the following circular letter was sent out to the various Boards of Trade and kindred organizations, suggesting that the shippers appoint a committee to meet the committee of the carriers that adopted the contract submitted to them. The following is the circular:—

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THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

OTTAWA, ONT., April 24, 1908.

Re Bill of Lading.

‘DEAR SIR,—In March, 1905, complaint was made to this Board regarding the form of bills of lading in use by the railways and which had been temporarily approved in October, 1904. The complaint came from the Canadian Manufacturers’ Association, and was afterwards supported by the Bankers’ Association, by various Boards of Trade, merchants, and shippers throughout the country. After much delay, in February, 1907, a draft bill of lading was submitted by a select committee appointed by the railway companies, and this was printed and distributed among those interested in the matter, the result being that the Board received from various shippers and business parties throughout the Dominion a variety of suggestions as to changes and modifications that should be made. The Winnipeg Jobbers’ and Shippers’ Association submitted a form and afterwards requested that it be withdrawn. There does not appear from all the mass of correspondence and suggestions, any concerted idea of what would, from the shippers’ point of view, be a fair contract; on the other hand, the proposition of the railways has been before the Board since February, 1907.

‘There seems to be no reason why this matter should not be dealt with, three years having elapsed, and not much progress made. The letters and circulars from the shippers and those interested, from their standpoint, contain such divergent ideas that the matter is left in a most difficult and complicated position for the Board to deal with.

‘When the question of a uniform bill of lading was before the Interstate Commerce Commission, upon the complaint of the Illinois Manufacturing Association, much the same diversity of opinion existed among the shippers, and the Commission suggested that, the matter being one for negotiation between the various conflicting interests, a joint committee of the carriers and shippers should be formed with the view of adjusting the points in dispute. The result was that a contract was ultimately agreed upon.

‘The Board is of the opinion that a similar course may produce good results in the present instance, and suggests that the shippers appoint a committee to meet the committee of the carriers that adopted the contract submitted by them. This should produce—

‘First, unanimous agreement among the shippers as to what is deemed from their standpoint to be a fair contract; and

‘Second, adjustment of many, if not all, of the terms of the contract.

‘This circular is being sent to all the persons and associations that have corresponded with the Board upon the subject, with the suggestion that arrangements be at once made between them for the appointment of a small committee to meet, with as little delay as possible, the committee representing the railways.

‘This committee of the shippers should be clothed with authority to represent all their interests; there should be a secretary to this committee, with whom correspondence with this Board may be carried on, and the delay and labour of corresponding direct with the various persons and associations saved.

‘The Board will be pleased to learn that immediate steps are taken upon the above lines, to facilitate its dealing with this matter, and will grant a special sitting at any time to hear the parties interested, or deal with any counter suggestions, either from the shippers or the railways.

‘Mr. W. E. Foster, of the Grand Trunk Railway Company, Montreal, is the secretary of the sub-committee representing the railway interests.

‘Yours truly,

‘J. P. MABEE,
‘Chief Commissioner, B.R.C.’

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As a result of this communication, a special committee representing the business communities; that is to say, the Boards of Trade and similar bodies throughout the Dominion, was named and after several meetings a conference was had between the representatives of the shippers and the railways in the rooms of the Canadian Manufacturers Association, Toronto, on March 22 and 23, 1909, and the Board understands that considerable progress was made towards coming to an agreement. There were, however, certain points of difference which are to be taken up on a date to be fixed in April next when it is hoped that sufficient progress will be made to enable the matter to be dealt with by a special hearing as suggested in the above circular of April 24, 1908.

PASSENGER RATES.

As stated in the report of the Board for the year ending March 31, 1909, a circular letter was sent to all the railway company's subject to the Board's jurisdiction, informing them of the order of the Board herein, and asking if they were willing to have their standard tariffs similarly reduced, and if not to file their objections with the Board. The following is the list of railways on which the maximum passenger basis is three cents per mile.

List of Railways on which Maximum Passenger Basis is Three Cents per Mile.

Bay of Quinte.	New Brunswick Coal & Railway Com-
Boston & Maine.	pany.
Canadian Northern.	New York Central.
Canadian Northern Ontario.	Niagara, St. Catharines & Toronto.
Canadian, Northern, Quebec.	Pere Marquette.
Canadian Pacific (East).	Quebec Railway, Light & Power Com-
Canadian Pacific (West), east of Ed-	pany.
monton-Calgary line.	St. Maurice Valley.
Central Ontario.	Salisbury & Harvey.
Central Vermont.	Schomburg & Aurora.
Chatham, Wallaceburg & Lake Erie.	Tilsonburg, Lake Erie & Pacific.
Elgin & Havelock.	Toronto, Hamilton & Buffalo.
Grand Trunk (East).	Wabash.
Hampton & St. Martins.	Windsor, Essex & Lake Shore Rapid
Irondale, Bancroft & Ottawa.	Railway.
Maine Central.	Kingston & Pembroke.
Michigan Central.	New Brunswick Southern.
Midland Railway of Nova Scotia.	Grand Valley.
Moncton & Buctouche.	Brantford & Hamilton.

No further action has been taken by the Board.

COMPLAINT OF THE FREDERICTON, N.B., BOARD OF TRADE.

This was a complaint filed with the Board by the Board of Trade of the city of Fredericton, in the province of New Brunswick, complaining that the Canadian Pacific Railway Company and the Grand Trunk Railway Company of Canada were unjustly discriminating against the city of Fredericton in the rates charged on traffic originating west of Montreal, in the province of Quebec, and in favour of the city of St. John, in the province of New Brunswick, and applying for an order directing that the said discrimination be removed. The complaint was heard at a sitting of the Board held in the city of Ottawa on the 23rd of April, 1908, before the chief commissioner, the deputy chief commissioner and Commissioner Mills, in the presence of counsel for the Board of Trade, the Canadian Pacific Railway Company and the Grand Trunk Railway Company of Canada. The judgment of the Board was delivered by the chief commissioner under date of the 28th April, 1908 (for the full text of the judgment see Appendix 'D'). The judgment directed that an order should go absolving both the Intercolonial and the Grand Trunk Railway Company

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of Canada from the agreement referred to as having been entered into between the Intercolonial Railway and the Grand Trunk Railway Company, and directing the Grand Trunk Railway Company to restore to Fredericton the St. John rate upon all traffic originating west of Montreal. The following is the full text of formal order of the Board, issued pursuant to the judgment of the Board:—

Order No. 4682.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Meeting at Ottawa, Tuesday, the fifth day of May, A.D., 1908.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*

Hon. M. E. BERNIER, *Deputy Chief Commissioner.*

JAMES MILLS, *Commissioner.*

In the matter of the complaint of the Board of Trade of the city of Fredericton, in the province of New Brunswick, hereinafter called the 'Applicant,' complaining that the Canadian Pacific Railway Company and the Grand Trunk Railway Company of Canada, hereinafter called the 'Grand Trunk,' were unjustly discriminating against the city of Fredericton in the rates charged on traffic originating west of Montreal, in the province of Quebec, and in favour of the city of St. John, in the said province of New Brunswick; and applying for an order directing that the said discrimination be removed;

Upon the hearing of counsel for the applicant, the Canadian Pacific Railway Company and the Grand Trunk, the evidence adduced, and what was alleged,—

It is Ordered, That the Intercolonial Railway and the Grand Trunk be, and they are hereby, absolved from the agreement with the Canadian Pacific Railway Company, as the result of which the rates to Fredericton on traffic from points west of Montreal were raised from two and one half cents (2½ cents) to eight cents (8 cents) per one hundred pounds above the rates on traffic from the same points to St. John, New Brunswick; and that the Grand Trunk be, and it is hereby, directed to restore to Fredericton the St. John basis of rates on traffic originating west of Montreal as aforesaid.

(Sgd.) J. P. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

COMPLAINT OF THE CITY OF CHATHAM.

This was a complaint filed with the Board by the City of Chatham, in the province of Ontario, complaining that the Grand Trunk Railway Company of Canada and the Wabash Railroad Company refused to issue passenger tickets for traffic over the portions of the Grand Trunk Company's line of railway operated by both companies which were available on the trains of either company as was formerly the practice, and applying to the Board for an order directing the companies to restore this practice. The matter was the subject of considerable correspondence between the Board and the railway companies affected, and finally on May 27, 1908, the Board issued the following order:—

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THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA

Meeting at Ottawa, Wednesday, the twenty-seventh day of May, A.D., 1908.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*Hon. M. E. BERNIER, *Deputy Chief Commissioner.*JAMES MILLS, *Commissioner.*

In the matter of the complaint of the Council of the city of Chatham, in the province of Ontario, complaining that the Grand Trunk Railway Company of Canada and the Wabash Railroad Company refuse to issue passenger tickets for travel over the portions of the Grand Trunk Railway Company's line of railways, operated by both companies which are available on the trains of either company, as was formerly the case; and applying for an order directing the companies to restore the practice:

Upon reading the petition, and what has been alleged on behalf of the companies respectively:—

1. The Board doth order that the said companies be, and they are hereby, required to interchange passenger tickets between all stations in the province of Ontario through which the railways of both companies run passenger trains.

2. And the Board doth further order that each of the said companies account to the other for the revenue earned upon the tickets so interchanged.

(Sgd.) J. P. MABEE,

*Chief Commissioner,**Board of Railway Commissioners for Canada.*

INTERSWITCHING.

The matter of interswitching charges generally is one that has been under the consideration of the Board for nearly two years, during which period arguments have been presented to the Board at sittings held in Winnipeg, Lindsay and Toronto, in interswitching cases, with the object of suggesting standardization; and the Board has also had several reports from its chief traffic officer on the subject. It might here properly be remarked that by 'interswitching' is meant the local service performed in moving local cars at and above common points by one company or by another, without any reference to the transfer of through or interlining freight.

On the 15th January, 1908, by direction of the Board a circular letter was sent to a number of parties who had filed complaints with the Board and to certain of the railway companies inclosing report of the Board's chief traffic officer, dated the 18th December, 1907, together with a memorandum of judgment of the late chief commissioner, the Hon. A. C. Killam, adopted by the full Board, on the subject of interswitching, in order that the parties might have an opportunity of making any observations or suggestions on the subject they might desire to make, coupled with a statement that, on the receipt of answers, the Board would be prepared to deal with each particular case individually. In response to this circular letter a number of answers were received and the matter was set down for consideration at sittings of the Board, held in Toronto on the 18th of May, 1908. Subsequently, on the 8th of July, 1908, the Board made an order dealing with the general question of interswitching, as follows:—

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Order No. 4988.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Meeting at Ottawa, Wednesday, the Eighth day of July, A.D. 1908.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*Hon. M. E. BERNIER, *Deputy Chief Commissioner.*JAMES MILLS, *Commissioner.*

In the matter of the following complaints to the Board: The Canadian Manufacturers' Association, the Huntsville Lumber Company *et al.*, against the Grand Trunk Railway Company of Canada; the W. Booth Lumber Company against the Grand Trunk Railway Company of Canada; the Winnipeg Manufacturers' Association against the Canadian Pacific Railway Company and the Canadian Northern Railway Company; W. J. Lovering against the Grand Trunk Railway Company of Canada; Messrs. Leak and Company against the Grand Trunk Railway Company of Canada; Messrs. T. Dexter & Son against the Grand Trunk Railway Company of Canada; the Boake Manufacturing Company against the Grand Trunk Railway Company of Canada; the Peterborough Sandstone and Brick Company against the Canadian Pacific Railway Company and the Grand Trunk Railway Company of Canada; the town of Lindsay, Ont., against the Grand Trunk Railway Company of Canada and the Lindsay, Bobcaygeon and Pontypool Railway Company, and the Canadian Pacific Railway Company; the Windsor, Essex and Lake Shore Rapid Railway Company against the Pere Marquette Railroad Company; Messrs. Melady & Company against the Canadian Northern Railway Company; the Board of Trade of Niagara Falls *re* interswitching at Niagara Falls, Ont.; and J. Davy against the Niagara, St. Catharines and Toronto Railway Company.

Whereas, the foregoing and many other complaints have been made to the Board against various railway companies regarding the charges made for interswitching;

Therefore, the Board, having heard the evidence adduced in support of some of the said charges—certain of the same having been allowed to stand over until the matter could be dealt with in a general manner as far as possible, with the view of establishing some fixed basis for payment for interswitching services, and having fully considered the views and submission of the various interests, and the report and recommendation of its chief traffic officer, under the authority conferred upon it by the Railway Act, doth Order, Direct and Declare as follows:—

For the interpretation, application and operation of this order, —

1. (a) 'Interswitching' shall not include the service incidental to the transfer and continuous carriage of through or interline traffic between points outside of and beyond the terminal limits hereinafter prescribed.

(b) 'Contracting Carrier' shall, where it is necessary, between the points of shipment and delivery, to use the line or lines of another carrier or other carriers than the carrier performing the interswitching service, include such other carrier or carriers.

2. It shall be lawful for the contracting carrier to absorb the toll charged for the interswitching of competitive traffic.

3. Upon traffic destined to consignees located upon, or reasonably convenient to, the tracks of the contracting carrier, or to consignees who have customarily accepted the contracting carrier's delivery, or which may be so consigned as not to indicate clearly the delivery required, and which subsequent to shipment is ordered by the shipper, the consignee, or the agent of either, for interswitch delivery involving an additional service by another carrier, and which is so interswitched, the contracting

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carrier may charge and collect, in addition to its freight charges (including back charges if any), the interswitching toll of the carrier which performs such service, which toll shall not be more than twenty (20) cents per ton for any distance not exceeding four (4) miles, nor more than three dollars (\$3) as the minimum and eight dollars (\$8) as the maximum per carload.

4. Upon traffic destined to consignees located upon or reasonably convenient to tracks other than those of the contracting carrier, or to consignees who have customarily required such other carrier's delivery, the contracting carrier may for the interswitching service rendered necessary for such delivery charge and collect an additional toll of not more than ten (10) cents per ton for any distance not exceeding four (4) miles, nor more than one dollar and a half (\$1.50) as the minimum, and four dollars (\$4) as the maximum, per carload; and the interswitching toll of the carrier which performs such service shall not be more than twenty (20) cents per ton, nor more than three dollars (\$3) as the minimum, and eight dollars (\$8) as the maximum, per carload—provided that the contracting carrier shall not thereby be required to reduce its revenue below eight dollars (\$8) per carload.

5. Distance shall be computed to or from the nearest point of interchange.

6. The foregoing tolls shall include the empty movement of the car to or from the point at which it was received by the interswitching carrier.

7. Traffic consigned 'to order' shall be subject to the provisions of paragraph three (3) and four (4) of this order as the same may apply.

8. Traffic interswitched at the point of shipment shall be subject to clause four (4) of this order, in so far as the same may be applicable.

9. The class and commodity tariffs of all railway companies subject to the provisions of the Railway Act, shall show clearly and explicitly at what points and under what circumstances interswitching services will be performed, and at whose expense.

10. The tolls herein provided for interswitching service shall not interfere with or supersede any lawfully published freight rates for ordinary freight service from station to station.

11. All and every arrangement or device, such as free or assisted cartage, cartage allowances, or the like, intended to equalize the facilities of competing companies at common points, except such as are lawfully published in the freight tariffs of the companies, are hereby prohibited.

(Sgd.) J. P. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

This order becomes effective September 1, 1908.

A. D. CARTWRIGHT,

Secretary.

WINNIPEG RATE CASE.

This case was the outgrowth of a complaint filed with the Board by Portage la Prairie Board of Trade, Manitoba, against a series of special freight tariffs of the Canadian Pacific Railway Company expressed as 'to be used on re-shipments by Winnipeg wholesale houses only to traders doing business at or tributary to stations specified herein.' A judgment was delivered in this latter complaint by the late Chief Commissioner, the Hon. A. C. Killam, in which, 'inter alia,' he stated that he thought it advisable that the Board should not in that instance determine the rates to be substituted, as much delay would be involved in making the necessary inquiries but that it would be sufficient to disallow the tariffs referred to, allowing the company to substitute new ones which may be made the subject of complaint if found to be unjust

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to any interests. Subsequently, the Canadian Pacific Railway Company substituted new tariffs and the Winnipeg Board of Trade and the Winnipeg Jobbers and Shippers' Association and the Deloraine Board of Trade applied to the Board for an order disallowing the tariffs of freight rates issued by the Canadian Pacific Railway Company and the Canadian Northern Railway Company in substitution for the traders' tariffs, so-called, declared illegal by the Board as preferential in favour of Winnipeg. This application was heard at Winnipeg on September 16, 17 and 18, 1908, before the Chief Commissioner and Commissioner Mills, and at the conclusion of the hearing the Chief Commissioner delivered judgment of the Board (for full text, see Appendix 'D') dismissing the application. The following was the order issued by the Board in the matter.

Order No. 5453.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Meeting at Winnipeg. Wednesday, Thursday and Friday, the sixteenth, seventeenth and eighteenth days of September, A.D. 1908.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*

JAMES MILLS, *Commissioner.*

In the matter of the application of the Winnipeg Board of Trade, the Winnipeg Jobbers' and Shippers, Association, and the Deloraine Board of Trade, hereinafter called the 'Applicants,' under section 323 of the Railway Act, for an order disallowing the tariffs of freight rates issued by the Canadian Pacific and the Canadian Northern Railway Companies, hereinafter called the 'Railway Companies,' in substitution for the 'Traders' tariffs, so-called, declared illegal by the board as preferential and discriminatory in favour of Winnipeg.

Upon the hearing of counsel for the Applicants and the railway companies, the evidence adduced, and what was alleged, the cities of Regina and Portage la Prairie being represented at the hearing:—

It is ordered that the said application be, and it is hereby, dismissed.

And it is further ordered, that the question of special commodity rates from Winnipeg, also the adoption of a modification of the Ontario 'town' tariffs, prescribed in the order of the Board No. 3258, dated the 6th July, 1907 (Schedule A), as a basis for special 'town' tariffs applicable to the western provinces, as suggested at the hearing, be reserved for future consideration.

(Sgd.) J. B. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

BRAMPTON COMMUTATION TICKET CASE.

This was an application made by F. W. Wegenast, of the town of Brampton, Ont., under section 315 of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada to issue to him the fifty-five trip ticket for use between Brampton and Toronto, similar to those in use between Oakville and Toronto, and at the same rate at which those between Oakville and Toronto are sold. The application was heard in Toronto at the sittings of the Board held in Toronto on the 18th November, 1908, before the Chief Commissioner and Commissioners Mills and

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McLean, counsel appearing for the town of Brampton, the Brampton Board of Trade, the city of Toronto, the town of Oakville and the Grand Trunk Railway Company of Canada, and the applicant appearing in person. The judgment of the Board (Commissioner Mills dissenting) was delivered by the Chief Commissioner under date of the 23rd November, 1908, refusing the application for the reasons therein stated (for the full text of the judgment and of the dissenting judgment of Commissioner Mills see Appendix 'D'). Subsequently the applicant applied for a rehearing, but the Board refused to entertain the application on the ground of no new evidence sufficient to warrant a rehearing having been adduced.

PROPOSED UNIFORM CODE FOR CANADIAN RAILWAYS TRAIN RULES—PETITION OF TRAINMEN OF ONTARIO.

A special sitting was held in Ottawa on the 24th April, 1908, for the further consideration of the proposed uniform code of train rules for Canadian railways, and at the same sittings and in conjunction therewith the following matters submitted by the joint committee of the Legislative Board of the Brotherhood of Railroad Trainmen, were considered:—

1. That co-employees be allowed to attend investigations held by the Board's Inspector of Accidents, on request of witness.

2. That witness fees to be paid at such investigations be increased.

3. That the Board order an increase in the number of men on trains for flagging purposes.

4. That telegraph operators be not employed under the age of twenty-one and evidence be furnished of their having one year's experience in railroad work.

5. That the Board's inspectors be required to ride on and inspect the condition of locomotives.

6. That all engines be equipped with dump ash pans, such as will avoid the necessity of a man going under the engine to clean the same.

The Board also considered at the said sittings, in conjunction therewith, the following matters presented to it by memorial through the Ontario Brotherhood of Railroad Trainmen:—

1. That all brakes, dogs and ratchets be placed on the top of the car instead of on the step at the end of the car.

2. That all cars used as caboose be equipped with air brakes, gauge, conductor's valve, platform, steps and cupola.

3. That operating levers be placed on both sides of the draw-bar along the end of the car.

4. That no obstructions be piled on the tops of any box cars while being hauled by the train crew.

5. That any order requiring men to ride on the top of trains be abolished.

6. That safety handholds and steps be placed on engines.

7. That obstructions and structures be placed not less than six feet clear of rail.

8. That not less than five men be placed on any train and not less than three men on light engines.

9. That there be a car limit as to number.

10. That passenger brakemen have one year's experience in yard or freight service.

11. That steps be taken to prevent the handling of crippled cars on trains, except on wreck trains.

At this meeting there were present Mr. Harvey Hall, legislative representative of the different labour organizations; Mr. David Campbell, representing the Order of Railroad Telegraphers; Mr. Geo. A. Wark, representing the Locomotive Firemen; Mr. Lawrence, representing the Brotherhood of Locomotive Engineers; Mr. Courte-

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nay, representing the Trainmen; and the following representatives of the different railways:—

M. K. Cowan, K.C., assistant solicitor, and W. G. Brownlee, general superintendent, representing the Grand Trunk Railway Company.

F. H. Chrysler, representing the Dominion Atlantic Railway.

E. W. Beatty, assistant solicitor; J. W. Leonard, assistant general manager, and H. H. Vaughan, assistant to vice-president, representing the Canadian Pacific Railway Company.

W. P. Torrance and R. H. L'Hommedieu, general manager, representing the Michigan Central Railway Company.

Andrew Haydon, representing the Great Northern Railway, operating lines in Canada.

C. H. Hibbard, representing the Q., M. and S. Railway.

T. J. Kennedy, general manager, representing the Manitoulin and North Shore Railway.

H. W. Gays, general manager, representing the Ottawa and New York Railway.

Geo. Collins, general manager, representing the Central Ontario Railway.

J. H. Black, general superintendent T. and N. O. Railway, representing the Temiskaming and Northern Ontario Railway.

Mr. Little, representing the Orford Mountain Railway.

F. M. Spaidal, general superintendent, representing the Canadian Northern Railway Company.

J. S. Pyatt and Mr. Trump, general superintendent, representing the Père Marquette and the London and Port Stanley Railway.

J. E. Duval, representing the Canadian Car Service Bureau.

F. C. Cleaver, representing the Rutland Railway.

Dealing with the question of the proposed uniform code of train rules for Canadian railways, it was agreed that the committee of Trainmen should file with the Board, as a confidential document, their criticism of the final revision of the rules submitted by the select committee of five representing the railway companies operating in Canada, and that upon such criticism being filed, the Board would then again take the matter up and for that purpose the further consideration of the uniform code of train rules stood adjourned. Subsequently a special committee of five to consider the objections raised by the trainmen was named by the board. This committee was composed of two officers of the Board, two representatives of the railway companies, and one representative of the men.

In connection with the memorial of the Trainmen's Association of Canada, for the adoption of certain regulations by the Board as heretofore mentioned the Board issued the following order:—

Order No. 5888.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Meeting at Ottawa, Wednesday, the sixteenth day of December, A.D. 1908.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*

Hon. M. E. BERNIER, *Deputy Chief Commissioner.*

JAMES MILLS, *Commissioner.*

In the matter of the memorial of the Trainmen's Association of Canada, for the adoption of certain regulations by the Board, having in view the protection of employees of the railway companies, subject to the jurisdiction of the Board:—

Upon the report of the operating officials of the Board; and upon hearing the representatives of the railway companies and of the employees; and in pursuance of

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the powers conferred upon it by sections 30 and 269 of the Railway Act, and of all other powers possessed by the Board in that behalf,—

It is ordered that,

1. No freight train, except work or construction trains of fifteen cars or less, now in service, shall be made up or allowed to proceed upon its journey unless at least three-quarters of the cars composing such train have air brakes in good working order.

2. The number of cars that may be drawn in freight trains shall be left entirely to the judgment of the operating officials of such railway companies; in all cases, however, in which it may be found necessary to double-head, the leading engine shall control the train.

3. Every road locomotive engine shall be equipped with a step or steps and hand-holds on both sides of and at or near the rear ends of tenders; foot-rests shall be provided on the pilots of every such engine, sufficiently wide for a man to stand on; every switching or yard engine shall be equipped with foot-boards and headlights on the front and rear ends of the engine and tender. such foot-boards to be not less than ten inches wide; the back of such foot-boards shall be protected by a board not less than four inches high, and if cut in the centre, the inner ends shall be protected in like manner; and foot-boards and headlights shall be placed on the rear end of the tender of every road locomotive used for switching service, except in case of emergency; in no case, however, shall any engine be continuously used for switching purposes for more than twenty-four hours without such equipment.

4. The number that shall comprise the switching engine crews shall be left entirely to the judgment of the operating officials; on main lines light engines shall not be run at a distance greater than twenty-five miles in any one direction without a conductor, in addition to the engineer and the fireman; and on branch lines, the operating officials shall determine the necessity of requiring conductors on light engines.

5. Every locomotive engineer of such companies must have at least one year's continuous experience as a fireman, pass a satisfactory examination in regard to the proper care of locomotive engines, the handling of air brakes, and train rules and regulations, be at least twenty-one years of age, and undergo an eye and ear test by a competent examiner before being eligible for appointment as such engineer. Except in cases of emergency, every conductor of such companies must have at least one year's experience as a brakeman or conductor and be at least twenty-one years of age before being eligible for appointment as such.

6. The telegraph operators of such companies required to handle train orders shall be at least eighteen years of age, able to write a legible hand, to send and receive messages at the rate of not less than twenty words a minute, and be thoroughly familiar with and required to pass an examination upon train rules before a competent examiner.

7. Every employee of such railway companies engaged in operating trains shall, before undertaking such duties, be required to undergo a colour test by a competent examiner.

8. All railway companies shall strictly conform to the rules and regulations, from time to time approved by the Master Car Builders' Association, governing the loading of lumber, logs and stone on open cars, and the loading and carrying of structural material, plates, rails and girders. No material of any kind shall be carried upon the roofs of cars.

9. All open drains crossing tracks in the yards of such companies shall be covered for five feet on each side of the rails, except in times of flood, when temporary open drains may be provided; semaphore and signal wires, when they cross under tracks, shall be carried in pipes or boxes; new buildings and semaphores and poles erected shall be placed not less than six feet from the rail of the main track; water stand

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supply pipes shall be fastened parallel with the main line; and engine-men shall be required to see that this is done after using such pipes.

10. Every person or company offending against any of the foregoing provisions shall forfeit and pay the sum of \$50 for every such offence.

(Sgd.) J. P. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

CARTIER AND SARNIA TUNNEL—STOP-OVERS ON WESTERN GRAIN.

This matter came before the Board for consideration in connection with a complaint filed by the Montreal Board of Trade, Transportation Bureau. The complaint was heard and evidence taken at the sittings of the Board held in the city of Montreal on the 22nd of December, 1908, before the Chief Commissioner, the Assistant Chief Commissioner and the Deputy Chief Commissioner. Mr. W. S. Tilston represented the Montreal Board of Trade; Mr. C. B. Watts the Dominion Millers' Association; Mr. J. E. Walsh the Canadian Manufacturers' Association; Mr. E. W. Beatty the Canadian Pacific Railway Company; and Mr. M. K. Cowan, K.C., the Grand Trunk Railway Company.

The judgment of the majority of the Board (the Assistant Chief Commissioner dissenting) was delivered on the 28th of December, 1908. (For the full text of judgment and dissenting judgment, see Appendix 'D.')

The following was the order of the Board issued in pursuance of the said judgment.

Order No. 6147.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Meeting at Montreal, Thursday, the twenty-first day of January, A.D. 1909.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*

D'ARCY SCOTT, *Assistant Chief Commissioner.*

Hon. M. E. BERNIER, *Deputy Chief Commissioner.*

In the matter of the complaint of the Transportation Bureau of the Montreal Board of Trade against an additional charge of one cent per 100 pounds imposed by the Canadian Pacific Railway Company at Cartier, Ontario, on western grain and grain products, in carloads, consigned to Cartier, 'for orders,' under Supplement No. 13, effective September 1, 1908, to the company's tariff, C.R.C., No. E 678, and still in force by Supplement No. 15 to the same tariff.

Upon the hearing of counsel for the Transportation Bureau of the Montreal Board of Trade, the Canadian Pacific Railway Company, the Dominion Millers' Association and the Canadian Manufacturers' Association, the evidence adduced and what was alleged,—

It is ordered that the said charge of one cent per 100 pounds imposed by the Canadian Pacific Railway Company at Cartier, Ontario, on western grain and grain products in carloads, consigned to Cartier 'for orders,' under Supplement No. 13, effective September 1, 1908, to the company's tariff, C.R.C., No. E 678, and still in force by Supplement No. 15 to the same tariff; and by the Grand Trunk Railway Company at Sarnia tunnel, on grain and grain products, in carloads, originating in western Canada, destined to points in eastern Canada, and routed via Chicago, Chicago

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Junctions, or Milwaukee to Sarnia tunnel, Ontario, 'for orders,' under Supplement No. 3 to the company's tariff, C.R.C., No. E 1101,—be and the same is hereby disallowed, and a 'stop-over' charge of twenty-five (25) cents per car a day for the first forty-eight hours, and the car service toll thereafter, substituted therefor.

And it is further ordered, that this order become effective not later than the 15th day of February, 1909.

D'ARCY SCOTT,
*Assistant Chief Commissioner,
Board of Railway Commissioners for Canada.*

CAR SHORTAGE.

As stated in previous report, the equipment question would appear to have worked out its own solution. That is to say, that there is still a considerable excess of idle cars both in Canada and the United States, over and above the requirements for traffic purposes.

During the past year the number of complaints made to the Board in regard to car shortage has greatly decreased, and as will appear from statement of uniform complaints in Appendix 'E,' filed with the Board, there were less than a dozen complaints made to the Board during the year, and these were of local or minor importance.

No further action, therefore, has been taken by the Board in regard to the equipment question, other than to deal with the special complaints made.

FORM OF RELEASE FOR FREIGHT SHIPPED TO FLAG STATIONS.

The matter of a form of release of responsibility for freight shipped to flag stations upon the lines of all railways in Canada subject to the jurisdiction of the Board having been brought before the Board in connection with the complaint of the Winnipeg Board of Trade respecting alleged demand of the Canadian Pacific Railway Company that shippers in Winnipeg sign a release form for freight shipped to regular or flag stations, the Board having considered the matter at its meeting held in Winnipeg on February 8, 1909, issued an order providing as follows:—

1. That hereafter the form of release of responsibility for freight shipped to flag stations, upon the lines of all railways in Canada, subject to the jurisdiction of the Parliament of Canada, be in the following form:—

'In consideration of the.....Railway Company having received the above described property for transportation from..... Station to.....Station.....do hereby release said company from all loss or damage that may occur to any of the above mentioned property after it has been unloaded from the cars at.....Station, the said station being a flag station without agent.'

2. That no other form of release shall be required to be signed by any shipper of any property to any flag station upon any line of railway in Canada until further order (if any) regarding facilities and conveniences to be established by railway companies at flag stations.

INVESTIGATION OF EXPRESS COMPANIES.

As stated in previous report, owing to the illness and death of the then Chief Commissioner of the Board, Hon. A. C. Killam, further sittings in connection with the above investigation had to be postponed and, as a consequence, further enlarge-

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ments were granted by the Board, extending the time advised by Section 27 of the Act 6 Edward VII, Cap. 37, until the first of June, 1909, within which the express companies were required to file their tariff of tolls. After the Chief Commissioner, Hon. J. P. Mabee, had an opportunity to read the large amount of evidence taken and familiarize himself with the question arising therefrom, sittings of the Board were held in Toronto on.....day of December, 1908, and adjourned sittings in Montreal commencing January 5, 1909. Previous, however, to these sittings the Board made an order under date of October 22, 1908, order No. 5493, temporarily approving the express classification for Canada, C.R.C. No. 1, Table of Graduation Charges, C.R.C. No. 2, and Monthly Classification C.R.C. No. 3, filed with the Board on July 2, 1908. At a subsequent meeting held in the city of Ottawa on January 11, 1909, the Board made an order, No. 6020, rescinding the said order of October 22, 1908, and directing all express companies to at once notify their agents to apply the tariff and rules in instances prior to January 1, 1909; and in all respects to carry on their business in compliance with the rates and rules prior to that date, until further order of the Board; and further providing that the cancelling of the said section and tariff filed, should not necessarily give rise to claims for reparation as to any shipments occurring within ten days from January 12, 1909, but, that such claims if made should be dealt with, regard being had to the steps taken by the companies to inform their agents as required by the order of the Board.

JUDGMENT OF THE BOARD—NEW CLASSIFICATION DISALLOWED.

The CHIEF COMMISSIONER.—It is not denied that this classification, which came into force on January 1, 1909, will materially increase the receipts of the express companies. It is not an inconsiderable volume of traffic that the rates have been increased through the charges on returned empties, and the adoption of the weight and measurement rule. It has been shown that the movement under these heads is large and considerable. The increase, it is said, will run up to nearly 100 per cent. When this inquiry began, before I became a member of the Board, an undertaking was given on behalf of the express companies that, pending the inquiry, no increase of tolls should be made by them. I think it is the duty of the Board to require that this undertaking be carried out. When this classification was approved I understood that such changes as were made were small, and that, upon the whole, there was a reduction and not an increase. There was, therefore, some surprise when it was found that these general increases had been attempted.

There was no notification of any kind given to the public of these changes, and no opportunity to shippers to adapt their business to such changes as might be reasonable. I can only repeat I would not have signed the order approving of this classification upon any ex parte application of the express companies had I been in possession of the facts now before us, but would have required public notice to be given in order that those who have to pay these tolls should have an opportunity to present their views. Many and important rules have been changed; those that I have carefully considered are mostly changes in favour of the companies. These have not yet had sufficient investigation, nor is the full purport of them yet understood by either the public or the Board.

I am free to confess that this matter was not given the consideration it was entitled to when the order of October was made, my understanding being that it was for the convenience and not for the profit of the express companies, and that tolls were not, upon the whole, being increased.

It is said the disallowance now of this new tariff and classification will be a hardship upon the express companies, requiring reprinting the old classification, and its distribution. I regret that this is so, but the present confusion is brought about

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by reason of the companies' action in filing and asking approval of a classification that materially increases the tolls, when it was understood this should not be done, and if an order has inadvertently issued, that should not have been made, it is the plain duty of the Board to recall it, and its so doing in this case only reinstates the conditions that shippers are perfectly familiar with and upon which they have been doing business for many years.

Complaint is made that this course casts an imputation of bad faith upon the companies. I do not say, and have not said, that there was any bad faith, or deliberate intention to deceive or mislead the Board. The traffic officers of the companies discussed matters very fully with the chief traffic officer of the Board, who was of opinion that, upon the whole, the proposed changes would reduce instead of raise the receipts of the companies, but so far as the evidence given before us goes, the contrary is the case. It is, I think, unfortunate that this proposed change in the classification and rules had not been brought to the attention of counsel for the government, who have had charge of this whole inquiry from its inception. Had this course been taken, it is fair to assume that after inquiry as to the effect of the proposed changes, approval would have been for present withheld. This omission I regard as an oversight, and not by design.

It was represented to me that some shippers were defrauding the express companies by shipping full packages by freight, and returning the empties by express, taking advantage of the rule allowing empties to return free. To stop this, they proposed to charge 50 per cent of the merchandise rate, and in some instances specific charges on the returned empties. The facts now show that the effect of this upon the business of only some 18 or 20 shippers would be to cause an increase of \$25,000 and \$30,000 in express tolls upon their volume of business in 1908. I do not understand, when approving this change, that the companies were protecting themselves in this way.

Many cases in the United States and England, and followed here, hold that a long-established rate is regarded as reasonable unless shown to be too low, it would not be proper to permit a general increase in rates through the medium of imposing a toll upon returned empties without requiring the companies to show affirmatively that the outward rate was not sufficient to cover the transport of the returned empty free of charge. Of course, we do not at this time deal with the suggestion that the practice involves discrimination.

The weight and measurement rule is creating a disturbance that could have all been avoided if public notice had been given so shippers could have adjusted themselves to it, if it were thought a proper rule to introduce, as to which we can say nothing at present.

We are of opinion that the order approving this classification, of January 1, 1909, must be rescinded, and this classification and variation of the old rules disallowed. Of course, this is not to be regarded as a final disposition of the matter, but merely leaves everything connected with the express business as it stood prior to January 1, and all evidence applicable to the subject given upon the inquiry will be treated as being given for the purpose of obtaining allowance of this classification and amended rules, some of which at present appear not to be unreasonable.

The companies must at once notify all their agencies to apply the tariff and rules in existence prior to January 1, and in all respects carry on their business in compliance with the rates and rules in force at and prior to that date until further disposition of this hearing.

Cancellation of the tariff filed and above referred to shall not necessarily give rise to claims for reparation as to any shipments occurring within the next ten days, but such claim, if made, shall be dealt with individually, regard being had to the steps taken by the companies to inform agents of the above cancellation.

Further hearing of the express investigation was continued before the Chief Commissioner to the Board at St. John, N.B., on the 18th of January, 1909; and by

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the Chief Commissioner and Commissioner McLean, at Winnipeg, on the 1st of February, 1909; Regina, the 11th of February; Medicine Hat, the 15th of February; Calgary, the 17th of February; Edmonton, the 19th of February; Vancouver, the 23rd of February; Victoria, the 27th of February; Nelson, the 5th day of March; Lethbridge, the 8th day of March, and Winnipeg, the 10th of March.

Prior to the above sittings of the Board, on the dates stated forthwith, the following notice was sent under instructions of the Board, to the secretaries of the various boards of trade in the provinces of Manitoba, Saskatchewan, Alberta and British Columbia, and the express companies and others directly interested, notifying them of the sittings as follows:—

January 18, 1909.

Re Complaint against Express Companies originating in the Provinces west of the Province of Ontario.

DEAR SIR,—I am directed to inform you that the Board of Railway Commissioners for Canada will hold a sittings in the following cities and towns commencing on the dates named, viz.:—

Winnipeg, February 1, 1909.

Regina, February 11, 1909.

Medicine Hat, February 15, 1909.

Calgary, February 17, 1909.

Edmonton, February 19, 1909.

Vancouver, February 23, 1909.

Victoria, February 27, 1909.

During its western sittings, the Board heard numerous complaints, almost all given, such sittings to be held in the court house, and the Board will be prepared, on the dates specified and at the places named, to hear complaints against express companies doing business in the western provinces.

If your board of trade have any complaints to lay before the Board, you are requested to notify the Secretary of the Board to that effect as soon as possible after the receipt of this notice.

Yours truly,

(Sgd.) A. D. CARTWRIGHT,

Secretary, Board of Railway Commissioners.

The Secretary, Board of Trade.

During its western sittings, the Board heard numerous complaints, almost all of which have been held over to be dealt with when the general question of express rates has been disposed of, and since the return of the Chief Commissioner and Commissioner McLean from the western sittings, arrangements have been made to continue the investigation the later part of April or early in May in Toronto, the delay being caused by counsel for the various interests not being able to arrange for an earlier continuation.

TORONTO UNION STATION AND PROPOSED VIADUCT.

A special sittings of the Board was held in Toronto on the 20th May, 1908, and the two following days, in connection with the settling of the plans of the Union Station in Toronto, and matters connected therewith, and also in settling the question whether the railway tracks in Toronto should be raised or depressed in different parts of the city, and whether any or what further bridges should be built for carry-

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ing streets over railways along the water front. Counsel appeared at the said sittings for the corporation of the city of Toronto, for the Toronto Board of Trade, the Grand Trunk Railway Company of Canada, the Canadian Pacific Railway Company, and for certain property owners affected by the proposed viaduct. After hearing counsel, the application was adjourned until the 4th June, the Board directing that in the interim the corporation of the city of Toronto should file and serve a formal application on the parties interested, setting forth the character of the works required.

At the hearing on the 4th June, objection was taken to the jurisdiction of the Board to order the elevation of the railway companies' tracks along the Toronto water front, and the judgment of the Chief Commissioner, concurred in by Commissioner Mills, was delivered on the 8th June, 1908. (For full text of the judgment, see Appendix 'D.')

The Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company made application to a judge of the Supreme Court on the 24th June, 1908, for leave to appeal to the Supreme Court on the question of the jurisdiction of the Board to entertain the application of the municipality. Mr. Justice Duff, who heard the application, reserved judgment, and having expressed the opinion upon the argument that there might be questions of law raised other than that of jurisdiction, and stating that as to these application would have to be made to the Board for leave to appeal, the railway companies thereupon made an application to the Board on the 14th July, 1908, for leave to appeal and for an opportunity to the parties to give any further evidence upon the questions involved in such appeal. Upon this last application, the Chief Commissioner, expressing the views of the Board, stated that the Board was of opinion that the next appointment it gave should be one to take all the evidence that any person might offer regarding the question as to whether an order for a viaduct or a grade crossing should be made, and that the case should not be split up any more than it had been.

Subsequently the city applied for an appointment to proceed with taking the evidence at an early date, which the Board granted, and the matter was taken up at a sittings of the Board held in Toronto on the 8th December, 1908, before the Chief Commissioner, the Assistant Chief Commissioner and Commissioner Mills. The judgment of the majority of the Board was delivered by the Assistant Chief Commissioner, under date of the 29th December, 1908. (For the full text of the judgment, see Appendix 'D.')

The Chief Commissioner wrote a separate judgment under date of the 30th December, 1908, in which he differed from his colleagues on certain points. (For the full text of his judgment, see Appendix 'D.')

A further hearing for the purpose of settling the terms of the order to be issued pursuant to the judgment of the Board was had on the 12th of January, 1909, in Ottawa; and upon the undertaking of counsel for the railway companies given to counsel for the city of Toronto, to file complete and working plans within three months from that date, and to furnish copies thereof to the city, it was arranged that final settlement of the order should stand adjourned for three months.

The matter of the appeal of the railway companies to the Supreme Court of Canada from the judgment of the Board is still pending.

Re TELEPHONE RATES.

As stated in the previous report, a large amount of evidence had been taken in this connection and the late Chief Commissioner, the Hon. A. C. Killam, K.C., was engaged in preparing a judgment at the time of his death. Since then no further evidence has been taken, save dealing with the matter of the Bell Telephone Company and the Windsor Hotel Company, in which the following order was made :—

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Upon the hearing of counsel for the applicant company and the Windsor Hotel Company, the evidence adduced, and what was alleged:—

It is ordered, that the said contract be, and it is hereby approved, subject to the following conditions, namely:—

1. That the charge of ten cents for each connection had over any telephone thereby leased with the Montreal Exchange subscribers of the applicant company be subject to alteration at any time by the board.

2. That any extension of the term of the agreement after the expiration of ten years, be subject to the approval of the Board.

The reasons for this order appear in Appendix 'D.'

(Sgd.) J. P. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

Re RAILWAY FENCING AND CATTLE GUARDS.

The Board has been in receipt, during the past year, of a number of complaints from farmers and settlers in the northwestern provinces, complaining of neglect or failure on the part of the railway companies to properly fence their right of way. Also numerous complaints in respect to cattle killed on railway tracks.

In view of these complaints, after the return of the Chief Commissioner and Commissioner McLean from the western sittings, held by the Board during the months of February and March, the following circular, together with memorandum prepared by the Chief Commissioner and a draft order in connection therewith, was mailed to all railway companies subject to the jurisdiction of the Board, and to all secretaries of boards of trade of the principal towns of the provinces of Manitoba, Saskatchewan, Alberta and British Columbia. The Board will, at its sittings to be held the first Tuesday in May, hear the interested parties as intimated in the circular.

The Board feels that the subject is one which calls for its immediate attention, and hopes by the proposed action to get rid of the cause of these complaints, or at least greatly ameliorate the condition of affairs in this respect now existing.

The following are the documents referred to.

March 25, 1909.

Circular No. 34.

Cattle Guards, Highway Crossings and Fencing of Rights of Way.

DEAR SIR,—I am directed by the Board to inclose you a memo. and draft order prepared by the Chief Commissioner upon the question of fencing the rights of way of railway companies, cattle guards and highway crossings. The final settlement of the terms of this order will be spoken to at a meeting of the Board to be held in Ottawa on May 4 next. Any suggestions you may see fit to make either by letter or in person at this meeting, will receive consideration.

Yours truly,

(Sgd.) A. D. CARTWRIGHT,

Secretary, Board of Railway Commissioners.

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THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*S. J. McLEAN, *Commissioner.*

In the matter of complaints against railway companies for non-compliance with the provisions of the statute regarding fences and cattle guards and public highway crossings.

Upon hearing complaints from many individuals, public bodies and municipalities that railway companies are not complying with the provisions of section 254 of the Railway Act, and that much hardship is caused by the exemption provided for in subsection 4 of the said section, and upon request being made that the Board intervene, as provided for by said subsection, and upon hearing what was said upon behalf of the railway companies,—

It is ordered, that all railway companies subject to the jurisdiction of this Board shall, as to all railway lines completed, owned or operated by them, whether or not the lands on either side of the railway are inclosed, settled or improved—

1. Within one year from this date erect and maintain, on each side of the right of way (1) fences of a minimum height of 4 feet 6 inches, with swing gates, 18 feet in width, at farm crossings, with minimum height aforesaid, with proper hinges or fastenings; (2) cattle guards on each side of the highway at every highway crossing at rail level. Provided that siding or hurdle gates, constructed before the 1st day of February, 1904, and farm gates of a minimum width of 16 feet, constructed before the 1st day of April, 1909, may be maintained.

2. The railway fences at every highway crossing shall be turned into the respective cattle guards on each side of the highway.

3. All fences, gates and cattle guards shall be suitable and sufficient to prevent cattle and other animals from getting on the railway.

4. As to lines not yet completed or opened for traffic, or in course of construction, all such companies shall—

(1) Erect fences, gates and cattle guards as aforesaid as the line of railway is graded.

(2) If not yet opened for traffic, then such fences, gates and cattle guards as aforesaid shall be erected and maintained before such railway shall be opened for traffic.

(3) Where the railway is being constructed through inclosed lands, it shall be the duty of the railway company to at once construct such fences so that cattle and other animals cannot escape, or injury be caused by them to crops.

5. Where in mountainous or other sections of the country, it shall be made to appear to the Board that no necessity exists for the fencing or other works hereinbefore directed, the company or companies may apply to the Board for exemption from fencing and other works, and such exemptions may be made as the Board deems proper.

6. All railways now in operation shall, within one year, construct and maintain suitable and proper highway crossings at all such as may be opened for travel, and additional ones at once upon such highways being from time to time open for travel.

7. All railways not yet opened for traffic, or hereafter constructed shall, before the same are opened for traffic, construct and maintain suitable and proper highway crossings at all such as may be opened for travel, and additional ones at once upon such highways, being from time to time opened for travel.

8. All such crossings shall comply with the standard conditions of the Board, which are as follows:—

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(1) That, unless otherwise ordered by the Board, the width of approaches to rural railway crossings over highways be 20 feet road surface on concessions and main roads, and 16 feet on side and bush roads.

(2) That a strong, substantial fence or railing, 4 feet 6 inches high, with a good post-cap (4 inches by 4 inches), a middle piece of timber (1½ inches by 6 inches), and a 10-inch board, firmly nailed to the bottom of the posts to prevent snow from blowing off the elevated roadway, be constructed on each side of every approach to a rural railway crossing, where the height is 6 feet or more above the level of the adjacent ground, leaving always a clear road surface of 20 feet wide.

(3) That the width of approaches to rural railway crossings made in cuttings be not less than 20 feet clear from bank to bank.

(4) That, unless otherwise ordered by the Board, the planking or paving blocks or broken stone, topped with crushed rock screenings, on rural railway crossings over highways (between the rails and for a width of at least 8 inches on the outer sides thereof) be 20 feet long on concession and main roads, and 16 feet on side and bush roads.

Re RAILWAY FENCING AND CATTLE GUARDS.

The CHIEF COMMISSIONER.—At every sitting of the Board, from Winnipeg to Victoria, complaints were made against the railway companies in connection with the fencing, or rather the defective and non-fencing of their rights of way, and that the law regarding cattle guards was not complied with. Claims innumerable for stock killed, and refusal to make compensation were disclosed. Many cases appeared where stock had been killed upon the track, and farmers were afraid to ask for compensation for fear of being involved in endless litigation.

It would seem, perhaps, that upon the whole the absence of fences along the right of way is a more fruitful source of loss to the rancher and farmer than defective cattle guards or of their absence.

Cases were given where those in charge of the construction of railways entered upon improved and inclosed land, threw down the fences, made no attempt to inclose the right of way, allowing stock to get out upon the highways, thus injuring crops and in some instances these cattle were killed upon distant railway tracks. Whether these wrong-doers were independent contractors or servants or officers of the railways under construction, did not appear, but so far as this Board has power, it is determined that such high-handed and unreasonable conduct shall cease.

The Railway Act is clear upon the questions of fencing and cattle guards, and the time has arrived when something must be done to compel the observance of its provisions.

Section 254 provides as follows:—

‘1. The company shall erect and maintain upon the railway—

(a) Fences of a minimum height of 4 feet 6 inches on each side of the railway;

(b) Swing gates in such fences at farm crossings of the minimum height aforesaid, with proper hinges and fastenings, provided that sliding or hurdle gates constructed before February 1, 1904, may be maintained; and

(c) Cattle guards on each side of the highway at every highway crossing at rail level with the highway.

‘2. The railway fences at every such highway crossing shall be turned into the respective cattle guards on each side of the highway.

‘3. Such fences, gates and cattle guards shall be suitable and sufficient to prevent cattle and other animals from getting on the railway.

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'4. Wherever the railway passes through any locality in which the lands on either side of the railway are not inclosed and either settled or improved, the company shall not be required to erect and maintain such fences, gates and cattle guards, unless the Board otherwise orders or directs.'

There has been no order of the Board respecting fencing through uninclosed or unimproved lands, and the practice of the companies, so far as I can learn, has been to leave their rights of way entirely unfenced, until the adjacent owner or owners had erected side fences, when such owner or owners would be expected to call upon the company to erect its fences. Cases, however, were presented where the side fences had been long since erected, but yet the railway fences had not been erected.

We have been furnished with no information by the railway companies of the amounts paid by them for cattle killed upon their lines, or of the number of claims they have disputed, but from the large number of cases that were brought to the attention of the Board where compensation has not been made, the better opinion perhaps is that the disputed claims vastly exceed those in which settlements have been made, if not, the companies have been paying out very large sums that would have been much better spent in protecting their rights of way.

Now, the statute defines clearly the kind of fence and cattle guard that must be provided; the fence must be at least 4 feet 6 inches high, and it and the cattle guards must be 'suitable and sufficient to prevent the cattle and other animals from getting on the railway.'

It is just as incumbent upon the companies to fence against hogs as it is against horses, yet it is not pretended that any attempt has been made to do so, and instances were given where farmers had so many hogs killed that they were compelled to abandon any attempt to raise them.

It seems to be the practice in Manitoba, Saskatchewan, some parts of Alberta and British Columbia to remove the cattle guards entirely in the winter time. This is done, it was said, to facilitate the operation of the snow ploughs. It is not shown by any railway expert that this practice is necessary, but it was shown by many Saskatchewan farmers that it was more important to them to have the cattle-guards in place during winter than any other season, as during the other seasons their cattle were mostly pasturing in the hills in charge of herders. At any rate, these cattle guards have been removed during the winter months without authority, and unless a great deal more can be shown than has yet appeared, the practice must cease. Furthermore, the railway companies must establish and maintain cattle-guards that will prevent cattle and other animals from getting upon the railways. This is the requirement of the law, and I know of no reason why it should not be complied with.

The provisions of clause 4 have been abused, and this statutory exemption from fencing has been used by the companies to free themselves from making compensation in innumerable cases of meritorious claims. This condition of affairs cannot be permitted to continue; it works great hardship upon the public, and is of little or no benefit to the railway companies. The conditions in the west have greatly changed since this exemption was granted to the companies, and as they are compelled at some stage of the undertaking to erect fences, I am clearly of the opinion that no hardship will be imposed if that stage is made the initial one.

I am aware that in various parts of the country no necessity now exists and possibly never will, for the erection of fences. The formal order may contain a provision that railway companies, the lines of which have already been constructed, may apply to exempt certain sections of the road from the operation of the order, when, if conditions are shown that such course will entail no hardship upon the public, the Board may so declare. The like course may be taken where railways are in course of construction, and as to such latter, when application is made to open the road for traffic, the fences, cattle-guards, highway and farm crossings and gates shall all form part of the work necessary to be complete according to the statute and the Board's regulations

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before permission is given to operate the road. I am convinced that this course will, in the end, be less expensive for the railway companies, as the erection of fences, gates, &c., can all be carried on at the time of construction at less cost than later on, to say nothing of saving liability for damage claims for stock killed and law costs in defending, even if successful.

Many complaints were made that in the construction of the railway lines the highway crossings were left in an impassable state, causing endless inconvenience and trouble to the public. I confess I am at a loss to understand such disregard of the rights of others, and such selfish and inconsiderate conduct upon the part of those constructing the railways, or responsible for their construction. If these works are let out to contractors, the railway companies may as well at once understand that they must make some provision in their contracts that will compel their contractors to treat the public with ordinary decency. This Board has no control over the contractors and can only deal with the railway companies. These highway crossings can be constructed at less expense when the grading is being done than later on, after the road is completed; and with respect to roads not yet completed, they will not be opened for traffic until every highway crossing opened for travel is put into the condition called for by the Board's regulations. As to these railways now in operation, all highway crossings, opened for travel, must be put into the condition called for by the regulations within one year from this date.

A draft order embodying the foregoing may be sent to all the companies, and its settlement spoken to by them at the May meeting of the Board at Ottawa.

March 23, 1909.

ROBERTSON AND THE GRAND TRUNK RAILWAY COMPANY.

This was an application of W. N. Robertson, to the Board under Section 26 of the Railway Act, to compel the Grand Trunk Railway Company of Canada to issue third class tickets at the rate of one penny per mile for each mile travelled and to run third class passenger carriages attached to one train per day each way, throughout the length of its line. The application was heard by the Hon. A. C. Killam, late Chief Commissioner, Deputy Chief Commissioner and Commissioner Mills and pursuant to the judgment of the Chief Commissioner an order was made directing the Grand Trunk Railway Company of Canada to run every day throughout the length of its line of railway between the city of Toronto in the province of Ontario to the city of Montreal in the province of Quebec, at least one passenger train having in it third class carriages for passenger traffic; and that the fare or charge for each third class passenger by any train on the said portion of its railway do not exceed two cents for each mile travelled; and the company was ordered forthwith to file with the Board passenger tariffs for the aforesaid portion of its railway embodying the said rate of two cents per mile for third class passengers.

The Grand Trunk Railway Company were granted leave to appeal to the Supreme Court of Canada, and the order of the Board was stayed pending the appeal. The Supreme Court of Canada affirmed the order of the Board and dismissed the appeal.

Further appeal was taken to the Judicial Committee of the Privy Council in England, in which appeal the Grand Trunk Railway Company were unsuccessful. Subsequently the Grand Trunk Railway Company filed with the Board a new tariff for third class passenger traffic between the stations, Montreal and Toronto inclusive, effective on April 1, 1909, being C. R. C. No. 'E' 958; and otherwise conformed to the order of the Board.

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PROTECTION OF HIGHWAY CROSSINGS BY ELECTRIC BELLS.

Orders have been issued by the Board from time to time providing for the installation and maintenance of electric bells at highway crossings where the highway is crossed by the railway and the Board having received from time to time complaints alleging that the bells were not kept in satisfactory order by the railway companies, after due consideration of the matter, and pursuant to the powers conferred upon it by sections 30 and 269 of the Railway Act, issued on the 3rd November, 1908, an order providing as follows:—

1. Every electric bell upon the line of any railway company subject to the legislative authority of the parliament of Canada, installed for the purposes of protection, shall be inspected every morning by the sectionman in whose division or section such bell is, and tested by placing a wire across the rail, upon each side of the crossing or by establishing electric connection by any other device or method which will indicate whether or not the bell is in good working order, and that if the bell fails to ring, or rings continuously, a flagman at once be placed at such crossing, whose duty it shall be properly to protect the same until such bell is repaired; and that notice of such non-repair be at once given to the station agent nearest to such bell, whose duty it shall be to report the matter at once to the department having charge of the operation and repair of such bells.

2. That failure to comply with the provisions of this order shall subject the defaulter to a fine of \$50, payment of which may be ordered by the Board upon proof of the offence.

EQUIPMENT OF NON-PLATFORM CARS WITH OPERATING LEVERS.

The Board, having had under consideration the question of the equipment of non-platform cars with operating levers, and having had the matter investigated and reported upon by one of its officers, pursuant to the powers conferred upon it by sections 30 and 269 of the Railway Act, issued an order under date November 25, 1909, as follows:—

1. Every railway company subject to the legislative authority of the parliament of Canada, operating a railway by steam power, shall equip, within the time hereinafter mentioned, each of its non-platform cars, as for example, ordinary box and mail or baggage cars, with the proper operating lever for uncoupling cars, and dispense with the operating wheel where in use on the ends of such cars for that purpose.

(a) In cars to be constructed in the future for use in their said railways, before they are so used.

(b) In cars under construction or in shops undergoing repairs, within three months from the date of this order;

(c) In cars at present in use on their respective railways, within six months from the date of this order.

2. Every such railway company shall be liable to a penalty of a sum not exceeding fifty dollars for every failure to comply with the foregoing regulations within the time for their coming into force and thereafter.

SMOKE NUISANCE.

The Board having been in receipt of complaints from several of the principal cities in the Dominion of Canada in regard to what is termed the smoke nuisance as applied to railway locomotives, and having at several sittings heard evidence in

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this connection, upon consideration of such evidence and the reports of certain of its officers, and pursuant to the powers conferred on it by sections 30 and 269 of the Railway Act, issued on November 25, 1908, an order containing the following provisions:—

1. Every locomotive steam engine operated in the province of Ontario by any railway company subject to the legislative authority of the parliament of Canada, shall be equipped so as to prevent the unnecessary and unreasonable omission therefrom to the atmosphere of dense or opaque smoke and every such locomotive steam engine shall, subject to clauses 2, 3, 4 and 5, while passing through or being operated within any city, town or village, be so operated as not to permit the unnecessary and unreasonable emission to the atmosphere of dense or opaque smoke.

2. Where it is necessary to clean out the fire-box or build a new fire, the necessary and reasonable emission of dense or opaque smoke within any city, town or village may be permitted for a period not to exceed six minutes in any one hour.

3. The necessary and reasonable emission of dense or opaque smoke from a locomotive steam engine standing at stations or in station yards in cities, towns or villages, may be permitted for a period of one minute in any ten minutes of any one hour.

4. This order shall apply to and be in force only in such cities, towns and villages in Ontario that have passed or may hereafter pass, by-laws for the control, regulation or prohibition of dense or opaque smoke from stationary steam engines, or a by-law or by-laws to the like effect.

5. In the ascent of the Scarboro grade easterly out of Toronto, or the grade east and west out of Hamilton, the necessary and reasonable emission of dense or opaque smoke may be permitted for a period not to exceed ten minutes in any one hour.

6. Every company or person offending against the foregoing regulations, or any of them, shall be subject to a penalty of twenty-five dollars for every such offence.

7. This order shall take effect on January 1, A.D. 1909.

EQUIPMENT OF CARS WITH AIR BRAKES.

The Board having had under consideration the question of equipment of cars with air brakes, and having had the matter investigated and reported upon by one of its officers, pursuant to the powers conferred upon it by sections 30 and 269 of the Railway Act issued under date of November 25, 1908, an order containing the following provisions:—

(1) Every railway company subject to the legislative authority of the parliament of Canada is, and it is hereby forbidden to handle freight cars in through main line passenger trains, unless such freight cars are equipped with air-brakes, steel tired wheels and special trucks designed for use in through-passenger train service.

Provided, however, that every such company shall be at liberty to use such freight cars in its through-passenger service when its baggage cars, or freight cars, especially equipped as aforesaid, become disabled or unfit for use while in transit, and such cars only are available to receive the baggage or freight, as the case may be, to avoid unnecessary delay in forwarding the same. In this event, the cars must not be loaded beyond their marked capacity, and the speed of the train must not exceed thirty-five miles an hour.

(2) Every such railway company failing to comply with the foregoing requirements shall be liable to a penalty of not exceeding fifty dollars for every such offence.

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EQUIPMENT OF PASSENGER COACHES WITH FIRE ETINGUISHERS.

The Board having had under consideration an application of the Canadian Pacific Railway Company to amend order of the Board No. 3238, dated July 3, 1907, requiring the railway companies in Canada subject to the jurisdiction of the Board to equip passenger coaches with two fire extinguishers, upon the report and recommendation of its Inspector of Railway Equipment and Safety Appliances, issued an order under date of May 5, 1908, varying order No. 3238, aforesaid, by permitting the railway companies to equip their passenger coaches with one fire extinguisher instead of two. The order also provides that unless the Board further directs, the equipment of said passenger coaches with one fire extinguisher shall be taken to be, and deemed, a compliance with the said order No. 3238.

PROTECTION OF BRIDGES.

The question of the protection of wooden trestles from fire during the months of the year in which fires were likely to occur having received a good deal of consideration at the hands of the Board, more particularly in connection with accidents the result of wooden trestles or wooden bridges having been burnt, the Board, pursuant to the powers conferred upon it by sections 30 and 269 of the Railway Act, issued the following order:—

Order No. 5103.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Thursday, the thirtieth day of July, A.D. 1908.

PRESENT:

Hon. J. P. MABEE, *Chief Commissioner.*Hon. M. E. BERNIER, *Deputy Chief Commissioner.*JAMES MILLS, *Commissioner.*

In pursuance of the powers conferred upon it by sections 30 and 269 of the Railway Act, and of all other powers possessed by the Board in that behalf,—

The Board doth order and direct, that every railway company subject to the legislative authority of the parliament of Canada, operating by steam power any railway or railways, any part or parts of which is or are constructed of or upon wooden trestles, do, during the months of May, June, July, August, September and October of each year, provide, place and keep a watchman, track-walker, fire alarm signals, ballast flooring, or fire-proof paint, as hereinafter directed, for the purpose of protecting the said trestles from fire, and thereby preventing trains from being burned, derailed or otherwise damaged at or on such trestles, each such company being allowed the option of adopting any one of the said foregoing methods of protection:—

1. Every such company shall place and maintain at each end of every wooden trestle on its line or lines of railway a barrel of a capacity not less than forty-five gallons; and on every such trestle over 200 feet in length, every such company shall place and maintain barrels of similar capacity at distances of not less than 150 feet—provided, however, that pile trestles over streams or other bodies of water need not be furnished with any such barrels.

2. Every such company shall keep and maintain the said water barrels in good repair and good condition for holding water, and see that they are kept full of water at all times.

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3. Every such company shall remove all brush and dead grass from beneath and around every such trestle, and keep the whole width of its right of way under and along every such trestle free from all kinds of combustible material.

4. Every such special watchman or track-walker, on or in the neighbourhood of timber lands and in localities distant from settlement, shall carry a pail or satisfy himself that a pail is at each of the different trestles under his care, in such a place that it cannot be taken away or used for any other purpose than that for which it was provided.

5. Where the protection provided is by a track-walker, all trestles, long and short, shall be regularly inspected, two inspections to be made every twenty-four hours on main lines, and one every twenty-four hours on branch lines.

6. Every such special watchman or track-walker, whenever any such trestle is injured by fire, shall, as soon as possible thereafter, report the same to the roadmaster on whose division he is working; and in the event of any such barrel or pail not being in good and efficient condition for the holding of water, every such special watchman or track-walker having charge of the same shall promptly report such condition to the said roadmaster; and whenever the height of water in any such barrel is lowered by evaporation or otherwise, say ten inches from the top of the barrel, every such special watchman or track-walker shall promptly report such condition to the said roadmaster.

7. Every such railway company failing or neglecting to comply with any of the foregoing regulations shall be subject to a penalty of thirty dollars.

8. Every such special watchman or track-walker failing or neglecting to make inspection of any such trestle in accordance with the foregoing regulations, or failing or neglecting to make any of the reports hereinbefore required of him and as so required, shall be subject to a penalty of fifteen dollars for each such failure or neglect.

9. That the order of the Board No. 3239, dated the 3rd day of July, A.D. 1907, be and the same is hereby rescinded.

(Sgd.) J. P. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

LIGHTING OF RAILWAY CARS.

The Board after having given considerable care and consideration to the question of the lighting of cars, and having had the matter investigated and reported upon by certain of its officers, pursuant to the powers conferred upon it by sections 30 and 269 of the Railway Act, issued an order, effective on and after the first of January, 1909, relative to the lighting of railway cars, providing as follows:—

1. That every railway company subject to the legislative authority of parliament of Canada, operating a railway by steam power, cause, subject to any exception or exceptions hereinafter contained in this order, the equipment of each and every car requiring lighting used on the railway or portion of railway operated by it, with one of the following lighting systems, namely:—

(a) The Pintsch Compressed Oil-Gas System.

(b) Acetylene gas, under what is known as the 'Absorbent or Commercial Acetylene System.'

2. That the Pintsch Compressed Oil-Gas System may be used subject to and upon the terms and conditions following, namely:—

(a) That the tanks be tested and tight at three hundred (300) pounds pressure to the square inch; and that they stand such tests without distortion: Provided that where, at the original date of issuance of this order, any railway company may have had in use tanks tested to a pressure not exceeding two hundred

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and ninety-four (294) pounds to the square inch, it shall be sufficient that the tanks be tested and tight at two hundred and ninety (290) pounds pressure to the square inch, and that they stand such tests without distortion;

Provided, further, that when, at any date subsequent to the original date of issuance of this order, any railway company installs the Pintsch system on its cars, or where any railway company already using the Pintsch system installs new tanks, the said tanks shall, in each and every case, meet the requirement that they be tested and tight at three hundred (300) pounds pressure to the square inch, and that they stand such tests without distortion.

(b) That the maximum working pressure be one hundred and fifty (150) pounds to the square inch.

(c) That every gas tank attached to a railway car, be equipped with an extra heavy stud valve securely fastened to every such tank.

(d) That the equipment necessary for the installation of the said system be provided with—

(d1) A pressure gauge with a dial reading either from one pound to three hundred pounds, or reading by atmospheres from zero to fifteen atmospheres, to show the exact pressure of gas carried.

(d2) A recharging valve to attach to the charging station hose.

(d3) A regulating valve, to reduce the pressure of gas contained in the tank before it enters the main line piping and lamps on the car.

(e) That all piping between the regulating valves and stud valves be of extra heavy seamless steel or iron tubing; and that all elbows or tees be of extra heavy fitting, provided that heavy flange brass fittings may be used in lieu of such equipment.

(f) That the high pressure piping and fittings be carefully threaded before being screwed together—the pipe thread to be carefully tinned after being screwed up, and the piping to be sweated to the fittings.

(g) That standard tubing be used to connect the low pressure side of the regulating valve with the lamps of the cars; and that a main line cock, to turn on and off the gas, be placed on the inside of each car in a convenient and conspicuous location.

(h) That, in order to locate leakages, soap suds be used; and that lighted matches or torches be not used for this purpose.

(i) That printed regulations defining and explaining the use of the system be posted inside of each car, in close proximity to the main line cock; and that a tank stud valve key, a main line cock key, and such other keys as may be necessary for the use and operation of this equipment, be supplied to and always carried by all conductors and brakemen while on duty in charge of any train or cars provided with this equipment; and that the regulations required by this section to be posted up, shall state that such keys are in the possession of the conductor and brakeman or brakemen of the said trains or cars.

(j) That every car lighted by this system be placed under the charge of a competent and reliable employee of the railway company using such system—every such employee to be specially instructed in regard to the proper working and operating of the same.

3. That the acetylene, or what is known as the 'Absorbent or Commercial Acetylene Storage System,' may be used, subject to and upon the following terms and conditions, namely:—

(a) That the tanks used in connection with the said system be properly safeguarded against the possibility of explosion, and to be tested and tight at four times the maximum working pressure, and be able to stand such test without distortion; and that the said tanks be protected by an effective and durable preventative of rust.

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(b) That the service tank pressure do not exceed one hundred and fifty (150) pounds to the square inch.

(c) That the acetylene gas be compressed; and that where tanks are charged elsewhere than at the generating station, plans showing in detail the location of all appliances used in connection therewith, including intended location of cars, be submitted to the Board for its approval, all gas to be thoroughly dried and purified.

(d) That car equipment be inspected and tested at least once every six months.

(e) That generators, charging apparatus and other details, be under expert supervision at all times.

(f) That acetylene gas generators be not installed in or upon cars or other railway rolling stock, except by leave of the Board.

(g) That every gas tank attached to a railway car be equipped with an extra heavy stud valve securely fastened to every such tank.

(h) That the equipment necessary for the installation of the said system be provided with—

(1) A pressure gauge with a dial reading from one pound to 300 pounds to the square inch, to show the exact pressure of gas carried.

(2) A recharging valve, to attach to the charging station hose.

(3) A regulating valve, to reduce the pressure of gas contained in the tank before it enters the main line piping and lamps on the cars.

And it is ordered and directed, That every such railway company may use free acetylene as a lighting medium, providing the same is not used under a pressure greater than ten pounds to the square inch; every such equipment to be submitted for and subject to the approval of the Board.

That these regulations neither prohibit the lighting of cars by electricity nor prevent or affect the lighting with what is known as 'Mineral Seal Lamp Oil.' On application the Board may, after a test has been conducted by the Board's Inspector of Railway Equipment and Safety Appliances, authorize the use of other oil or oils for car lighting. Any railway company or companies making application for such authorization must, at the time when such application is made, furnish samples of the said oil or oils to the said inspector for testing purposes.

That every railway company committing any breach of or failing to comply with any of the foregoing provisions be, for each such offence, liable to a penalty of one hundred dollars.

That every railway official or employee charged with any duty in respect of any of the matters aforesaid, who shall commit any breach of, or shall neglect to comply with the foregoing provisions, be liable to a penalty of twenty dollars for each such offence.

That these regulations take effect on and after the first day of January, 1909.

JUDGMENTS OF THE BOARD.

A summary of the principal judgments delivered by the Board for the year ending March 31, 1908, prepared by the law clerk, Mr. A. G. Blair, will be found under Appendix 'D.'

ROUTINE WORK OF THE BOARD.

RECORD DEPARTMENT.

Since the publication of the last report, this department has been placed under the charge of Mr. E. W. McNeill, who assumed his duties as Record Officer on March 1, 1909. Previous to Mr. McNeill's appointment, the department was under the

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supervision of the Secretary of the Board, who, under the Board's authority, had delegated the working out of all details in this connection to Mr. A. E. Ecclestone, his secretary. Owing, however, to the large increase in the work of the Commission in connection with the secretary's department, it was found impossible for either the secretary or for Mr. Ecclestone to give that care and attention which is absolutely essential in connection with the proper keeping of the Board's records. Before taking over his duties as Record Officer the Board deemed it desirable, on the suggestion of the secretary, that Mr. McNeill in company with Mr. Ecclestone should make a personal inspection of the system of keeping records adopted by the State Commissions of Maine and the State of New York and the Interstate Commerce Commission at Washington and authorized their visiting Boston, New York and Washington, in the month of March last, which they accordingly did, deriving therefrom much information of use to them in this work. By reference to the subjoined table, it will be seen that the number of applications and filings received and orders issued for the past year have materially increased, more particularly the orders, which have increased approximately 25 per cent.

With regard to the cases heard by the Board at sittings during the year covered by this report, it might be mentioned that.....folios of testimony were taken by the Board at these sittings. The following is a table of formal applications (including informal complaints) received under the Act, documents filed and orders issued by the Board, compared with those for the year ending March 31, 1908.

	April 1, '07 to March 31, '08.	April 1, '08 to March 31, '09.	Increase.
Applications, including 464 informal complaints.....	3,125	3,479	3 54
Filings (including outgoing letters).....	45,425	51,913	6,488
Orders issued.....	1,787	2,249	462

The outgoing letters numbered 23,530.

It will be noted that the above does not include correspondence or filings of the other departments of the Board, such as the Traffic Department, for which see Appendix B.

INFORMAL COMPLAINTS.

It is desirable to call attention to the large number of informal complaints dealt with by the Board. These number some 464. The applications heard at the public sittings of the Board, and so disposed of, number some 737, deducting this number from the total of 3,479 applications filed with the Board, it will be noted, that approximately 2,742 applications including the informal complaints, were disposed of without the necessity of a hearing.

SECRETARY'S DEPARTMENT.

Since the publication of the last Annual Report, the office of Assistant Secretary to the Board has been created by the appointment of Mr. E. A. Primeau, formerly registrar and accountant, to this position, by virtue of order in council dated the first day of July, 1908.

It was considered desirable that there should be an assistant secretary to the Board, having a thorough knowledge of French, whose chief duty would be to deal with all French correspondence connected with the Board. In addition to the duties assigned to him by the Board, Mr. Primeau has still charge of the Accounting Department.

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TRAFFIC DEPARTMENT.

No increase has been made in the staff of this department since the publication of the last report. One resignation has taken place, namely, that of Mr. C. N. Ham, and the vacancy caused by his resignation has not yet been filled. The Board has, however, made recommendation to the Governor in Council to fill the vacancy. The statement of the freight, passenger, telephone and express schedules filed with the Board between April 1, 1908, and March 31, 1909, will be found in conjunction with the report of the Chief Traffic Officer of the Board under Appendix 'B.'

ENGINEERING DEPARTMENT.

As stated in the last annual report, the Board had under consideration the appointment of an additional engineer, and Mr. N. Cauchon was appointed to the position under date of an order in council, 1st day of May, 1908, as assistant engineer with headquarters at Ottawa. A list of the examinations and inspections made by the engineering department for the year ending March 31, 1909, will be found under Appendix 'F.'

ACCIDENT DEPARTMENT.

As stated in the previous report, the Board has had under consideration the reorganization of this department, with the two-fold object in view of, first, securing greater promptness in dealing with accidents, and, secondly, of reducing expenses in connection with the holding of investigations. The Board, therefore, passed a regulation allotting certain provinces of the Dominion to certain inspectors, who should report to and be under the immediate supervision of a Commissioner. The following was the apportionment made:—

The province of Ontario, not including Port Arthur or west of Port Arthur, to be assigned to Inspectors Jas. Ogilvie and Jas. Clarke, having their headquarters at Ottawa, and to be under the supervision of the Assistant Chief Commissioner, D'Arcy Scott.

The province of Quebec and the maritime provinces to be assigned to Inspector E. C. Lalonde, having his headquarters at Montreal, and to be under the supervision of the Deputy Chief Commissioner, the Hon. M. E. Bernier.

The provinces of Manitoba and Saskatchewan and Ontario, from and including Port Arthur westward, to be assigned to Inspector W. S. Blyth, having his headquarters at Winnipeg, and to be under the supervision of Commissioner S. J. McLean.

The provinces of Alberta and British Columbia to be assigned to Inspector M. J. McCaul, having his headquarters at Calgary, Alta., and to be under the supervision of Commissioner Jas. Mills.

It was also provided that no expense for witness fees or detention of witnesses is to be incurred unless by direction of a Commissioner, and that in the absence from Ottawa of the Commissioner having supervision of the particular district, such direction might be given by any member of the Board. It was further directed that the Board or a Commissioner might at any time require any inspector or inspectors to make any special report upon any question or matter without reference to the assignment of the inspector to the particular province or district. Each Commissioner was authorized to deal with all reports upon matters in the provinces assigned to him, or to refer the same to the Board. In addition to dealing with accidents, the inspectors are to report on railway equipment and rolling stock. This arrangement came into

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force in the month of December, 1908, and it is expected that satisfactory results will follow the arrangement outlined. The report of accidents investigated, covering the year ending March 31, 1909, will be found under Appendix 'G.'

OFFICES OF BOARD.

Owing to the increase in the number of the Commissioners from three to six, and the consequent increase in the staff of the Board, the Board finds that its present quarters, which were inadequate and ill-adapted, particularly as regards light and ventilation for offices, before such increase, are now very much more so, causing the Board a good deal of inconvenience and also militating against the effective carrying on of the work of the Board, which has largely increased during the last two years. It is, therefore, very necessary that the Board should have increased accommodation at an early date, in fact, in order to meet the present requirements of the Board, and to provide for the future requirements, double the accommodation now at the Board's disposal is required.

The Board, therefore, trusts that this matter will receive early attention at the hands of the government, and a suitable suite of offices provided.

COMMISSION.

As will be noted by reference to the first portion of the report dealing with amendments to the Railway Act, the number of the Commissioners has been increased from three to six. One of the Commissioners thus created, was designated Assistant Chief Commissioner, and having all the powers of the Chief Commissioner, with the limitation, that such powers shall not be exercised by him except in the absence of the Chief Commissioner. The following were the appointments made by the Governor in Council to fill the positions so created.

That of Assistant Chief Commissioner was filled by the appointment of Mr. D'Arcy Scott, barrister, Ottawa, by order in council, dated the 17th day of September, 1908. Mr. Scott, was at the time of his appointment, senior member of the firm of Scott & Curle, barristers of Ottawa, and mayor of the city of Ottawa, which office he resigned after his appointment to the Board. Mr. Scott received his education at Ottawa University, Ottawa, and Osgoode Hall, Toronto, Ont.

That of Commissioner, by the appointment of the Hon. Thomas Greenway of Crystal City, Manitoba, by order in council, dated the 17th day of September, 1908.

That of Commissioner, by the appointment of Simon James McLean, M.A., L.L.B., Ph.D., by order in council, dated the 17th day of September, 1908. Mr. McLean was, at the time of his appointment, professor in that branch of the Department of Political Economy in Toronto University having special reference to transportation and commerce. In 1901, he was appointed by the Dominion government, a Commissioner to report on railway rate grievances, and investigated the rates complained against in Canada, his report being published in the year 1902; and it was on the basis of the recommendations set forth in his report that the legislation providing for the organization of the Board of Railway Commissioners was drafted and embodied in the Railway Act, 1903. He also acted in an advisory capacity to Mr. A. S. White, K.C., ex-Attorney General of New Brunswick, now Judge of the Supreme Court of New Brunswick, who was commissioned by the Dominion government to draft the Bill embodying the provisions of the Railway Act, 1903. It should also be mentioned that Mr. McLean, during the years 1899 and 1901, prepared a report to the late Hon. A. G. Blair, who held at that time the portfolio of Minister of Railway and Canals, on railway commissions and their work, in England and the United States.

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The Commissioners took office shortly after their appointment with the exception of the Hon. Thomas Greenway, who, on his arrival in the city of Ottawa, was taken ill and died within a short time afterward, his death, under the circumstances, being peculiarly sad. The vacancy caused by his death has not been filled by the appointment of a successor.

J. P. MABEE,
Chief Commissioner.

D'ARCY SCOTT,
Assistant Chief Commissioner.

M. E. BERNIER,
Deputy Chief Commissioner.

JAMES MILLS,
Commissioner.

S. J. McLEAN,
Commissioner.

March 31, 1909.

APPENDIX A.

STAFF OF THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA
FOR THE YEAR ENDING MARCH 31, 1909.

TRAFFIC DEPARTMENT.

Name.	Occupation.	Appointment.	Amount.
			\$ cts.
James Hardwell	Traffic expert.	June 22, 1904..	3,800 00
A. F. Dillinger.	Operating assistant.	April 6, 1907..	1,800 00
G. A. Brown.	Chief clerk.	Oct. 3, 1904..	2,000 00
C. E. McManus.	Clerk.	Sept. 1, 1904..	1,050 00
C. C. Routhier.	"	Aug. 14, 1906..	1,050 00
C. N. Ham.	"	Oct. 3, 1904..	1,000 00
H. W. Messinger.	"	July 8, 1904..	950 00
J. S. Allen.	"	May 6, 1907..	900 00
G. T. Riddell.	"	" 1, 1905..	800 00
F. Lalonde.	"	" 6, 1907..	900 00
J. R. Usher.	"	" 6, 1907..	750 00
C. Chapman	"	April 11, 1907..	600 00
			15,620 00

ENGINEERING DEPARTMENT.

G. A. Mountain.	Engineer.	June 30, 1904..	4,800 00
T. L. Simmons.	Assistant engineer.	Oct. 3, 1904..	2,500 00
H. A. K. Drury.	"	June 25, 1906..	2,500 00
N. Cauchon.	"	July 1, 1908..	2,500 00
John Murphy.	Electrical engineer.	May 15, 1906..	1,500 00
J. R. Foulds.	Clerk.	Oct. 14, 1906..	800 00

RECORD DEPARTMENT.

E. W. McNeill.	Record officer.	Feb. 8, 1909.	1,500 00
J. W. Thompson.	Clerk	Sept. 1, 1904..	1,150 00
C. S. Huband.	"	May 1, 1905..	900 00
W. A. Jamieson.	"	Aug. 14, 1906..	750 00
J. E. Martin.	"	May 6, 1907..	700 00
T. G. Britton.	"	" 6, 1907..	700 00
D. I. Langelier.	"	July 20, 1904..	650 00
F. R. Demers.	"	Aug. 14, 1905..	600 00

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SECRETARY'S DEPARTMENT.

Name.	Occupation.	Date of Appointment.		Amount.
				\$ cts.
E. A. Primeau.....	Assistant secretary..	May	7, 1904..	2,500 00
A. E. Ecciestone.	Secretary to secretary.....	Aug.	14, 1906..	1,100 00
J. B. Arbick.....	Clerk.....	Dec.	23, 1904..	700 00
G. F. Periey.	Clerk and stenographer.....	Jan.	2, 1908..	600 00
A. Larocque.....	" "	Dec.	31, 1908..	700 00
A. Lapointe.....	Clerk.....	May	6, 1907..	700 00
B. Chevrier (Miss).....	Stenographer..	July	20, 1904..	900 00
E. A. H. Barber (Miss).....	"	May	8, 1907..	550 00

ACCIDENT AND EQUIPMENT DEPARTMENT.

E. C. Lalonde.....	Inspector.....	July	20, 1904..	2,200 00
Jas. Ogilvie....	"	May	4, 1907 ..	2,200 00
M. J. McCaul.....	"	"	6, 1907..	2,100 00
W. S. Blythe	"	"	6, 1907..	2,100 00
Jas. Clarke	"	"	6, 1907..	1,800 00

LAW DEPARTMENT.

A. G. Blair	Law clerk	July	20, 1904..	2,500 00
R. Larose (Miss).....	Stenographer and librarian	May	1, 1905..	750 00

PRIVATE SECRETARY TO CHIEF COMMISSIONER.

R. Richardson.....		May	1, 1905..	1,600 00
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STENOGRAPHERS.

E. N. Cameron (Miss).....		July	20, 1904..	700 00
M. Hache (Miss).....		Dec.	31, 1907..	500 00
L. J. Lewis (Miss).....		May	7, 1904..	750 00
G. M. O'Connor (Miss).....		Dec.	31, 1908..	550 00
N. Casey (Miss).....		"	31, 1908..	700 00

MESSENGERS.

T. Chandler.....	Chief messenger and court usher.	May	15, 1904..	800 00
J. Dionne.....	Messenger.	"	27, 1907..	500 00
T. D. Latour.....	"	Dec.	31, 1907..	500 00
E. S. Barbeau.....	"	"	31, 1907..	500 00

CAR 'ACADIA.'

Geo. Taylor.....	Cook.....			720 00
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APPROPRIATIONS, EXPENDITURES AND RESOURCES.

Appropriations.		Expenditure during 12 months from April 1, 1908.	Unexpended Balance.
		\$ cts.	\$ cts.
Amount allowed by statute for salaries of members of com- mission and secretary.....	\$ 55,000 00	39,499 16	15,500 84
Amount voted by parliament for maintenance and operation of the board	103,000 00	94,623 72	8,376 28
Amount voted by parliament to pay expenses in connection with reference to cases before Railway Commission.....	10,000 00	2,846 29	7,153 71

Certified correct,
EUG. A. PRIMEAU,
Assistant Secretary.

Ottawa, April 1, 1909.

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APPENDIX B.

REPORT OF THE CHIEF TRAFFIC OFFICER OF THE BOARD.

OTTAWA, May 21, 1909.

SIR,—I have the honour to submit the report of the traffic department of the Railway Commission to March 31, 1909.

Subjoined is a statement of the freight, passenger, express and telephone schedules filed with the Board between November 1, 1904, when, by the order of the Board, under the authority of section 311 of the Railway Act, 1903, the railway companies commenced filing their tariffs, and March 31, 1909, and from April 1, 1908, to March 31, 1909, inclusive:—

GRAND TOTAL OF ALL SCHEDULES RECEIVED FROM NOVEMBER 1, 1904, TO AND INCLUDING MARCH 31, 1909.

Freight—

Local tariffs.....	3,030		
Supplements.....	4,120	7,150	
Joint tariffs.....	5,886		
Supplements.....	13,276	19,162	
International tariffs ..	20,884		
Supplements.....	52,519	73,403	
			99,715

Passenger—

Local tariffs.....	2,580		
Supplements... ..	1,671	4,251	
Joint tariffs.	1,150		
Supplements....	1,262	2,412	
International tariffs ..	5,015		
Supplements.	3,812	8,827	
			15,490

Express—

Local tariffs	2,119		
Supplements.....	10,477	12,596	
Joint tariffs.....	1,010		
Supplements.....	4,547	5,557	
International tariffs ..	1,541		
Supplements.	474	2,015	
			20,168

Telephone—

Local tariffs.....	673		
Supplements... ..	396	1,069	
Long distance tariffs.	1,121		
Supplements.. ..	444	1,565	
International tariffs ..	304		
Supplements.....	1,604	1,908	
			4,542

Combined totals, all schedules 139,915

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TARIFFS AND SUPPLEMENTS RECEIVED FROM APRIL 1, 1908, TO AND INCLUDING
MARCH 31, 1909.*Freight—*

Local tariffs.....	664		
Supplements.....	1,164	1,828	
Joint tariffs.	1,803		
Supplements.. . . .	4,551	6,354	
International tariffs	4,349		
Supplements.....	13,850	18,199	
			26,381

Passenger—

Local tariffs.....	788		
Supplements.....	730	1,518	
Joint tariffs.....	315		
Supplements.....	670	985	
International tariffs	1,283		
Supplements.....	1,439	2,722	
			5,225

Express—

Local tariffs	451		
Supplements.....	6,621	7,072	
Joint tariffs.. . . .	313		
Supplements	3,251	3,564	
International tariffs.....	109		
Supplements.....	205	314	
			10,950

Telephone—

Local tariffs...	18		
Supplements.	24	42	
Long distance tariffs.....	35		
Supplements	80	115	
International tariffs.....	4		
Supplements	733	737	
			894

Combined totals, all schedules..... 43,450

The following are the more important orders and regulations relating to traffic issued by the Board to March 31, 1909, namely:

March 9, 1904.—Order permitting railway companies to continue their reduced fares to clergymen; also to students of universities, colleges and schools, to and from their homes.

June 28, 1904.—Reduction ordered in the rates on oiled clothing in carloads from Toronto to Halifax, Winnipeg and Calgary.

July 16, 1904.—Canadian Freight Classification No. 12, with supplement No. 1 and ruling circular No. 1, approved.

July 30, 1904.—Order reducing rates on cooperage stock in carloads.

July 30, 1904.—Railway companies ordered to cease charging prohibitive rates on cedar lumber, ties, &c., and to substitute tolls which shall not discriminate between cedar and other woods; also to amend the Canadian Freight Classification by including rails, fence posts, telegraph poles and ties with other forest products, instead of carrying these commodities, as formerly, by 'special contract' only.

July 30, 1904.—Railway companies directed to reduce their rates on glass bottles, in carloads, from Wallaceburg, Ont., to Toronto, Hamilton, Berlin, London and Montreal.

October 3, 1904.—Order regarding special rates on material and machinery for new industries. Companies directed to report applications to the Board, which will deal with each on its merits.

October 3, 1904.—Application of Grand Trunk Railway Company for permission to charge a less rate on coal to Cobourg, Ont., for manufacturing purposes than charged to ordinary consumers and dealers declined.

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October, 1904.—Reduction ordered in the rates on coal from the Niagara and Detroit frontiers to Almonte.

October 10, 1904.—Application of the United Factories for a special rate on logs, Penetanguishene to Newmarket, Ont., declined.

October 10, 1904.—Order revising and reducing the classification of fruit, and prescribing a maximum charge for icing fruit cars in transit.

October 10, 1904.—Order reducing rate on split peas, for export, to the same basis as flour, for export.

October 31, 1904.—Railway companies directed to desist from charging higher rates on cedar lumber from the mills in British Columbia than charged on pine, fir and spruce.

December 29, 1904.—Disallowance of certain advanced freight tariffs on grain products from Ontario to the maritime provinces, which had been issued without legal notice. Companies directed to make restitution to shippers.

February 9, 1905.—Conditions prescribed under which railway companies may make and report to the Board special rates in certain cases, under section 275 of the Railway Act, 1903.

February 9, 1905.—Order prescribing under what circumstances the Board will receive telegraphic notices of proposed changes in freight rates under emergency conditions.

February 9, 1905.—Canadian Northern Railway Company authorized to carry material and machinery for new industrial works at Fort Frances, Ont., at reduced rates.

March 6, 1905.—Lower rates ordered on cattle from Ontario points to Montreal, St. John, West St. John and Portland, for export, so as to bring them more into harmony with those paid by United States shippers.

April 15, 1905.—Railway companies ordered to discontinue charging higher rates on grain between local points in Ontario and Quebec than charged on flour and other grain products between the same points.

June 2, 1905.—Preferential coal rates from Port Stanley and Rondeau, Ontario, ordered discontinued.

July 5, 1905.—Restoration ordered of rates formerly charged on metallic shingles, the increase of which had checked shipments.

July 13, 1905.—Cartage and other allowances by railway companies to shippers to offset disadvantages of location ordered discontinued, unless published in the companies' tariffs.

July 25, 1905.—Grand Trunk Railway Company ordered to provide reasonable and proper facilities for the interchange of traffic at London, Ont., and its tolls prescribed for switching traffic to and from the Canadian Pacific Railway.

July 25, 1905.—Reduction ordered in rates from Ontario on all freight traffic to Montreal, Quebec and the Atlantic seaboard, for export.

September 5, 1905.—Railway companies required to place their rates on coal from frontier ports of entry and lake ports to interior points in Ontario on an equal mileage basis.

1905.—Equalization of freight rates ordered to points between North Bay and Sault Ste. Marie, Ont., as between Toronto and Collingwood shippers.

September 19, 1905.—Order reducing rate charged at New Westminster, B.C., for switching grain to the distillery at Sapperton, and prescribing switching tolls within the New Westminster terminals.

October 14, 1905.—Reduced rates prescribed on stone from Manitoba quarries to Winnipeg.

October 17, 1905.—Canadian Pacific and Canadian Northern Railway Companies ordered to interchange carload freight without transshipment at Winnipeg and St. Boniface, Man., for shipment from or delivery at those points.

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October 31, 1905.—Reduced rates ordered on beams, in carloads, from shipping points in Ontario.

November 15, 1905.—Provision made for the fair distribution of empty cars at Lake Huron and Georgian Bay ports, for the movement of Northwest grain during car shortage.

November 28, 1905.—Interchange facilities ordered at Lindsay, Ontario, between the Grand Trunk and Canadian Pacific Railways, and tolls prescribed for switching local traffic.

December 14, 1905.—Reduced rates prescribed on extra compressed hay and fodder in carloads, from Grand Trunk and Canadian Pacific Railway stations in Quebec to Atlantic ports north of and including Boston, for export.

December 14, 1905.—Ordered that rates on grain and grain products, in carloads, from points west of Montreal to and including Cornwall and Finch, Ont., and south of the St. Lawrence in the counties of St. Johns, Laprairie and Napierville, Chateauguay and Huntingdon, to points east of Lévis, province of Quebec, shall not exceed the rates from Montreal to the same points by more than 2 cents per 100 pounds, nor by more than the differences existing at date of order.

January 6, 1906.—New car service or 'demurrage' rules, more favourable to the public than the old, promulgated by the Board for use on all railways subject to its jurisdiction.

February 14, 1906.—Order reducing the rate charged by the Red Mountain Railway Company for switching ore at Rossland, B.C., for the Trail smelter.

February 14, 1906.—Reduction ordered in the rate on grain, in carloads, from the Canadian Pacific Company's elevator at Owen Sound to unloading sidings within the company's terminals at the same place.

February 19, 1906.—Canadian Northern Railway Company directed to replace the siding to Messrs. Robinson & Son's coal and wood yard at Winnipeg, which had been removed.

March 24, 1906.—Reduced minimum carload weights prescribed for freight loaded in box cars longer than the standard length of 36 feet 6 inches.

March 24, 1906.—Additions ordered to the articles which may be shipped in mixed carloads at carload rates.

March 24, 1906.—Reductions in minimum chargeable weight for light and bulky articles requiring platform cars for carriage.

May 21, 1906.—Promulgation of additional regulations relating to the publication and filing of freight and passenger tariffs.

June 6, 1906.—The minimum carload weight of charcoal authorized by the Canadian Freight Classification not to be exceeded in commodity tariffs. Revision of commodity rates from Sault Ste. Marie ordered accordingly.

June 29, 1906.—Reduced rates ordered on packing house products, in carloads, from packing point in Ontario to Montreal, for export.

July 18, 1906.—Tolls prescribed to be charged by the Canadian Pacific Railway Company for switching traffic interchanged with the Grand Trunk Railway Company for loading or unloading at London, Ont.

July 19, 1906.—Authority granted the Dominion Atlantic Railway Company to charge the express rate on fresh fish on special freight trains making express time, Halifax to Yarmouth, N.S., for export to Boston; when so consigned, and in quantities beyond the handling capacity of the express company.

July 31, 1906.—Renewal of the Montreal to Toronto westbound rate ordered on wall paper from Toronto to Montreal and Ottawa, and as the maximum to intermediate points, with corresponding reductions to points east of Montreal.

August 1, 1906.—Order supplementing order of July 30, 1904, requiring the carriage of railway ties to Canadian points at rates not exceeding the non-competitive special tariff rates on common lumber; also to United States joint rate points. Order

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of July 30, 1904, against the Kingston and Pembroke Railway Company made applicable to all railway companies.

August 11, 1906.—Railway companies ordered to abolish the additional arbitrary rate of 5 cents per 100 pounds hitherto charged to British Columbia coast points on transcontinental traffic from eastern Canada; also to substitute the minimum carload weights of the Canadian Freight Classification for the higher minima previously charged on the said traffic when loaded in cars longer than the standard car of 36 feet 6 inches; also to reduce the weight allowance on lumber used for bracing or otherwise safeguarding carload shipments of the said transcontinental traffic requiring such protection, to the basis allowed elsewhere in Canada.

October 13, 1906.—Supplement No. 7 to Canadian Freight Classification No. 12, approved.

October 13, 1906.—Nelson and Fort Sheppard and Canadian Pacific Railway Companies ordered to furnish adequate and suitable accommodation and facilities for the carriage and interchange of lumber, shingles, &c., from Salmo and Ymir, B.C., to eastern Canadian points.

November 9, 1906.—Rates reduced and prescribed on freight traffic to rail points and lake ports of call in the district of Kootenay and Yale, B.C.

November 12, 1906.—Supplement No. 8 to Canadian Freight Classification No. 12, approved.

November 13, 1906.—Express companies' forms of contract temporarily approved, pending inquiry.

November 16, 1906.—Order amending order of February 14, 1906, regarding switching tolls to be charged by the Red Mountain Railway Company at Rossland, B.C.

November 19, 1906.—Promulgation of regulations relating to the publication and filing of express tariffs.

November 19, 1906.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1905, on joint application of the said railway companies and exporters.

December 6, 1906.—Promulgation of regulations relating to the publication and filing of tariffs of telephone tolls.

February 15, 1907.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1906, on joint application of the said railway companies and exporters.

March 13, 1907.—Reduced rate prescribed on logs, in carloads, from Brule Lake, Ont., to Renfrew, Ont.

March 18, 1907.—Canadian Pacific and Grand Trunk Railway Companies ordered to reduce their passenger rates on all their lines in Canada, east of and including the line of the Calgary and Edmonton Railway Company, to a maximum basis of 3 cents per mile.

April 11, 1907.—Approval of Supplement No. 8 to Canadian Freight Classification No. 12.

April 12, 1907.—Telephone companies directed to file particulars of any free service or tolls lower than the published tariff tolls allowed by the Board, granted by them; also particulars of cases in which the service of the companies is given wholly or in part for considerations other than monetary payments.

April 24, 1907.—Extending the time fixed in order of December 18, 1906, to July 1, 1907, for the filing and approval of tariffs of express tolls.

May 22, 1907.—Granting leave to the St. John Ice Company, to institute legal proceedings against the New Brunswick Southern Railway Company for permitting

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W. E. Scully to obtain lower rates of transportation than authorized or in force, and for transporting ice at less than the published tolls, in violation of the Railway Act.

May 23, 1907.—Further extending time for the filing and approval of express companies' tariffs until August 1, 1907.

May 23, 1907.—Time fixed by order of November 13, 1906, extended to August 1, 1907, authorizing the use of contracts, conditions, by-laws and regulations of express companies.

May 30, 1907.—Authorizing the Canadian Pacific Railway Company to grant reduced rate from British Columbia points to Montreal and return to members of Bisley team.

June 4, 1907.—Authorizing the Niagara, St. Catharines and Toronto Railway Company to reissue its Standard Freight Tariff with such additional mileages as are required to cover extensions to Welland and Niagara-on-the-Lake, and dismissing application of the company to conform to the Canadian Freight Mileage Tariff by advancing certain of the rates previously in force on the older lines.

June 7, 1907.—Extending the time for the approval of the Bell Telephone Company's tariffs of tolls until August 13, 1907.

June 11, 1907.—Additional extension of time for approval of tariffs of express companies to November 1, 1907, authorized.

June 22, 1907.—Approving form of general certificate of concurrence by express companies in Canada in joint tariffs of international express freight rates from points in the United States.

June 25, 1907.—Directing the Grand Trunk Railway Company to furnish cars and all proper facilities for receiving, loading and transporting import traffic received over the wharfs at Montreal, irrespective of cartage companies through whom the traffic is offered.

June 29, 1907.—Approving Canadian Freight Classification No. 13 (See Appendix).

July 2, 1907.—Ordering that the rate on imported iron and steel, in carloads, from Montreal harbour to Simplex Railway Appliance Company at Bluebonnets be $2\frac{1}{2}$ cents per 100 pounds, including the service of checking the goods from the carter to the car.

July 3, 1907.—Approving Supplement No. 9 to Canadian Freight Classification No. 12.

July 4, 1907.—Requiring railway companies to furnish the Board with certain information regarding junction points and joint tariffs, preparatory to the consideration of joint tariffs generally.

July 5, 1907.—The Grand Trunk Railway Company ordered to issue third-class tickets at 2 cents per mile, and to run third-class carriages daily between Toronto and Montreal.

July 6, September 23, November 13, 1907.—International Rate Order. The Grand Trunk, Canadian Pacific, Michigan Central, Pere Marquette, Wabash, Toronto, Hamilton and Buffalo and Canadian Northern Ontario Railway Companies ordered to revise and republish their special local class freight tariffs (known as 'town tariffs') in the territory east of and including North Bay, and east of the Georgian Bay, Lake Huron and the St. Clair and Detroit rivers, and south of the Ottawa river, on a uniform and modified mileage scale prescribed by the Board; also to revise and republish their through freight rates from central and western Ontario to eastern Canadian points, the maximum rates from Canadian points on the Detroit and St. Clair river frontier to all points east to the Atlantic and north to the Ottawa river not to exceed the rates on international traffic from Detroit and Port Huron to the same points: the revised rates to become effective not later than January 1, 1908. (See Appendix D).

July 6, 1907.—Requiring the railway companies to furnish to the Board various particulars relating to their traffic operations, not covered by section 375 of the Railway Act.

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July 17, 1907.—Authorizing the Canadian Pacific Railway Company to provide rates to British Columbia coast terminals on grain and mill stuffs, for export to Asia, by the issue of special rate notices.

July 26, 1907.—Standard passenger rate of Alberta Railway and Irrigation Company reduced to 4 cents per mile. Company also required to furnish return tickets for transportation of passengers at one and two-third times single fare.

August 6, 1907.—Vancouver, Westminster and Yukon Railway Company and the Canadian Pacific Railway Company ordered to furnish adequate and suitable accommodation and facilities for the carriage of traffic from points on the Vancouver, Westminster and Yukon Railway to points on the Canadian Pacific Railway.

August 6, 1907.—Crowsnest Southern Railway Company and the Canadian Pacific Railway Company ordered to furnish adequate and suitable accommodation and facilities for the carriage of traffic from points on the Crowsnest Southern to points on the Canadian Pacific Railway.

November 1, 1907.—Extending to March 1, 1908, the time for the filing and approval of the Bell Telephone Company's tariffs of tolls.

November 1, 1907.—Further extension of time to May 1, 1908, authorizing the use of existing contracts, conditions, by-laws and regulations of express companies.

November 1, 1907.—Extending the time for the filing and approval of the tariffs of tolls of the express companies, March 1, 1908.

November 1, 1907.—Extending the time for the filing and approval of the North American Telegraph Company's tariffs of tolls to March 1, 1908.

November 4, 1907.—The Grand Trunk Railway Company ordered to reduce its rates from Rouse's Point, New York, to Coteau Junction and St. Polycarpe, province of Quebec, to 80 cents per gross ton on anthracite and 70 cents on bituminous coal.

November 21, 1907.—Requiring the Grand Trunk Railway Company to change its tariff, C.R.C. No. E 425, so that the tolls to be charged upon the class of paper covered by said tariff from Merritton, St. Catharines and Thorold to Montreal shall not be greater than the rates published therein from Brantford to Montreal.

November 22, 1907.—Temporarily approving the bills of lading, contracts, &c., of the National and American Express Companies until March 1, 1908.

November 22, 1907.—Temporarily approving the bills of lading, contracts, &c., of the United States and Great Northern Express Companies until March 1, 1908.

December 10, December 28, 1907, January 15, January 30, 1908.—Orders relating to arrangements for proper connections for passenger and mail traffic at Brockville, to be furnished by the Grand Trunk and Canadian Pacific Companies.

December 17, 1907.—Temporarily approving the Pacific Express Company's contract forms until March 1, 1908.

December 19, 1907.—Approving certain traffic forms of the Maritime Express Company until March 1, 1908.

December 19, 1907.—Approving forms of contract for the transportation of live stock of the Nelson and Fort Sheppard, Vancouver, Victoria and Eastern and the Red Mountain Railways.

January 30, 1908.—Authorizing the chairmen of the official, western and southern classification committees to file with the Board copies of their freight classifications and supplements on behalf of United States railway companies which file international freight tariffs governed by these classifications.

February 26, 1908.—Extending till June 1, 1908, the time within which the North American Telegraph Company shall file and receive approval of its tariff of tolls.

February 26, 1908.—Extending till June 1, 1908, the time within which the Bell Telephone Company shall file and receive approval of its tariff of tolls,

February 26, 1908.—Extending till June 1, 1908, the time in which express companies in Canada shall file and receive approval of their tariffs.

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Order No. 4533, March 25, 1908.—Railway companies authorized to issue to secretaries of railroad Y.M.C.A.'s located on their lines, of which their employees are members and for their household effects, free or reduced transportation, when traveling on secretarial duties or being transferred.

Order No. 4680, May 7, 1908.—Carload rating of third-class prescribed for books.

Order No. 4682, May 5, 1908.—Intercolonial and Grand Trunk Railway Company absolved from agreement with Canadian Pacific Railway *re* freight rates to Fredericton, New Brunswick, on traffic from points west of Montreal. St. John, New Brunswick, basis of rates restored to Fredericton.

Order No. 4781, May 27, 1908.—Grand Trunk Railway and Wabash Railroad Companies ordered to interchange passenger tickets between all stations in Ontario through which the railways of both companies run passenger trains.

Order No. 4784, April 23, 1908.—Grand Trunk and Canadian Pacific Railway Companies ordered to arrange with Canadian Northern Ontario Railway Company for joint tariffs of passenger tolls and facilities for passengers to and from non-competitive points on the Canadian Northern Ontario Railway.

Order No. 4796, May 29, 1908.—Fixing the toll to be paid the Michigan Central Railroad Company by the John Campbell Milling Company at St. Thomas, for switching their traffic received from and destined to points on or via Grand Trunk Railway and directing the Michigan Central Railroad Company to refund overcharges with interest.

Order No. 4884, June 17, 1908.—Revised classification of military stores and ordnance approved.

Order No. 4886, June 18, 1908.—Reduction and re-alignment of rates on sugar from Vancouver to points in Alberta, Saskatchewan and Manitoba, on complaint of British Columbia Sugar Refining Company.

Order No. 4988, July 8, 1908.—Prescribing uniform tolls for terminal inter-switching services by all companies subject to the Railway Act.

Order No. 5117, July 30, 1908.—Permitting railway companies to file tariffs of tolls through outside agents, under powers of attorney filed with the Board.

Order No. 5774, December 3, 1908.—Authorizing Vancouver, Victoria and Eastern Railway and Navigation Company to meet on the Pacific Coast, by special competitive tariffs, the competition of independent water carriers not subject to the Railway Act.

Order No. 5954, December 21, 1908.—Directing railway companies to publish and file complete tables of distances between stations.

Order No. 5955, December 15, 1908.—Canadian Pacific Railway and Canadian Northern Railway Companies to publish and file joint tariff on grain and grain products from points on the line of the Qu'Appelle, Long Lake and Saskatchewan Railway and Steamboat Company to points in British Columbia.

Order No. 6147, January 21, 1909.—Limiting the stop-over toll that the Canadian Pacific Railway Company may charge on western grain and grain products held for orders at Cartier.

Order No. 6148, January 21, 1909.—Limiting the stop-over toll that the Grand Trunk Railway Company may charge on lumber and forest products held at Sarnia Tunnel for orders.

Order No. 6166, January 13, 1909.—Reducing the rates on western grain, *ex* vessel, from Kingston to points in Quebec and the maritime provinces.

Order No. 6167, February 4, 1909.—Directing express companies to carry acetylene gas, and prescribing condition of carriage.

Order No. 6168, February 3, 1909.—Reducing the rate on coal from Niagara frontier points to Lindsay, Ontario.

Order No. 6186, February 1, 1909.—Prescribing allowance to be made by railway companies to shippers who have to supply temporary grain doors to cars in which to ship grain.

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Order No. 6242, February 8, 1909.—Prescribing form of release of responsibility for freight shipped to flag stations upon lines of all railway companies subject to the Railway Act.

Order No. 6612, February 23, 1909.—Prescribing a basis of joint rates on lumber and forest products from local points on the Vancouver, Westminster and Yukon Railway to points on the Canadian Pacific Railway west of Winnipeg not reached by the Great Northern Railway or its connections.

Order No. 6689, March 29, 1909.—Directing all railway companies subject to the Railway Act to file standard tariffs of maximum sleeping and parlour car tolls.

Order No. 6701, February 19, 1909.—Prescribing allowance to be made by railway companies to shippers who have to furnish temporary protective doors to enable cars to be used for shipments of coal.

Order No. 6702, March 25, 1909.—Directing that railway companies subject to the Railway Act shall not charge higher rates on wooden telegraph, telephone and trolley poles, between points east of Port Arthur, loaded on single cars, than they charge on lumber under non-competitive conditions; and prescribing basis of rates and minimum weights to be charged on poles requiring more than one car for shipment.

Order No. 6749, February 11, 1909.—Reducing rates on coal from Bienfait, Sask., to certain points in Manitoba and Saskatchewan.

Order No. 6763, February 19, 1909.—Prescribing allowance to be made by railway companies to live stock shippers who are not supplied with stock cars for live stock shipments, and have to furnish lumber for doors to box cars.

Order No. 6859, February 6, 1909.—Prescribing tolls to be charged by the Canadian Pacific and Canadian Northern Railway Company for interswitching grain held in transitu at Winnipeg for milling, treatment or storage and reshipment.

Certain standard freight tariffs of the undermentioned companies have been approved by the Board in accordance with section 327, The Railway Act, as follows:—

Order No. 4573, April 7, 1898.—Niagara, St. Catharines and Toronto Railway Company's stations on new lines, omitting stations on main line between Port Dalhousie and Niagara Falls, Ont., C.R.C., No. 288.

Order No. 4684, May 7, 1908.—Klondike Mines Railway Company's standard freight tariff, C.R.C., No. 2.

Order No. 5024, July 7, 1908.—Supplement to Canadian Pacific Railway Company's standard freight tariff, C.R.C. No. E 1, applying on stations on new lines in Ontario (St. Mary's and Western Ontario Railway, Walkerton and Lucknow Railway and Listowel branch of Guelph and Goderich Railway.)

Order No. 5166, August 11, 1908.—Canadian Northern Ontario Railway Company's standard freight tariff, C.R.C., No. 74, applying between stations, Toronto and Sudbury.

Order No. 5168, August 13, 1908.—Canadian Pacific Railway Company, C.R.C. No. E 1244, applying between stations, Toronto and Sudbury.

Order No. 5194, August 18, 1908.—Brantford and Hamilton Electric Railway Company's standard freight tariff, C.R.C. No. 1.

Order No. 5413, October 9, 1908.—Canadian Northern Railway Company's standard freight tariff, supplement No. 2 to C.R.C. No. 38 between stations west of and including Maryfield, Sask.

Order No. 5414, October 8, 1908.—Montreal Terminal Railway Company's standard freight tariff, C.R.C., No. 3.

Order No. 6087, January 18, 1909.—Grand Trunk Pacific Railway Company's standard freight tariffs, Nos. 2, 3 and 4; Winnipeg to Victor, Manitoba; Welby, Sask., to Wainwright, Alberta; Westfort, Ontario, to Lake Superior Junction, Ontario.

Order No. 6112, January 26, 1909.—Grand Valley Railway Company's standard freight tariff, C.R.C., No. 1.

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The following standard passenger tariffs have been approved by the Board in accordance with section 331, The Railway Act:—

Order No. 5165, August 12, 1908.—Canadian Northern Ontario Railway Company, C.R.C., No. 26, between Toronto and Sudbury and Moose Mountain.

Order No. 5195, August 18, 1908.—Brantford and Hamilton Electric Railway, C.R.C., No. 1.

Order No. 5564, November 3, 1908.—Ottawa and New York Railway, C.R.C., No. 31, standard passenger tariff of bridge tolls for bridge section at Cornwall.

Order No. 5837, December 14, 1908.—Chatham, Wallaceburg and Lake Erie Railway Company, C.R.C., No. B 2, applying between Chatham and Erie Beach, Ontario

Order No. 5972, December 18, 1908.—Orford Mountain Railway Company's C.R.C., No. 20.

Order No. 6006, January 18, 1909.—Grand Trunk Pacific Railway Company's C.R.C., No. 2, stations east of Edmonton.

I have the honour to be, sir,

Your obedient servant,

J. HARDWELL,

Chief Traffic Officer.

A. D. CARTWRIGHT, Esq.
Secretary.

APPENDIX C.

LIST OF APPLICATIONS HEARD AT PUBLIC SITTINGS OF THE BOARD
COVERING THE PERIOD FROM APRIL 1, 1908, TO MARCH, 1909.

861. Application of the Chatham, Wallaceburg and Lake Erie Railway Company, under section 261 of the Railway Act, for leave to operate its line of railway for the carriage of traffic in the city of Chatham, on the following streets, that is to say:—From Dover street along and upon Union street and the Aberdeen bridge to King street and on King street, and on Third street, Wellington street and Raleigh street, and from Raleigh street through park lot No. 6 to Queen street, and from Queen street on a private right of way to William street and on William street to Queen street; and also applies for leave to operate temporarily and until such time as the protection plant can be installed, the crossing of the Canadian Pacific Railway on Raleigh street and the crossing of the Grand Trunk Railway at William street. (Application 5518. Case 2491.)

NOTE.—The portion to be dealt with at this sitting is that relating to the temporary crossing of the Grand Trunk Railway at William street, Chatham, Ont.

Temporary order issued granting leave to cross until August 1, 1908:—

862. Application of the Canadian Northern Ontario Railway for an order, under section 178 of the Railway Act for authority to take the following lands:—

1. That part of Park Drive located on lot 19, concession 2 F.B., in the township and county of York, lying east of the westerly limit of the right of way of the Toronto belt line railway, and extending to its junction with Bayview avenue deviation.

2. That portion of Bayview avenue extending northerly from a point thirty-three (33) feet south of the north limit of the city of Toronto to the junction with Bayview avenue deviation on lot 20 in the said concession; all of Bayview avenue deviation as located on lots 20, 19 and 18, in the said concession and about four hundred and fifty-nine and eight-tenths ($459\frac{8}{10}$) feet of Bayview avenue, measured northerly from the south limit of Bayview avenue deviation at its junction with Bayview avenue near the limit between lots 18 and 19 in the said concession.

3. A trespass road in the city of Toronto, on lots 15 and 16, concession 1 F. B., in the township and county aforesaid, extending northerly from Winchester street near the Canadian Pacific Railway subway to the south limit of Bayview avenue aforementioned, by substituting therefor a highway of sixty-six (66) feet in width, extending from the most northerly limit of that portion of Bayview avenue, herein sought to be closed to the north limit of Park avenue aforementioned, passing under and to the west of the right of way of the Toronto Belt Line Railway and a highway eighty (80) feet in width, extending from the south limit of Park drive aforementioned across lots 19 and 20, concession 2 and lot 16, concession 1 F. B., to the junction with the Rosedale ravine drive. (Application 5833. Case 2434.)

Judgment of the Board holding that the landowners are entitled to a voice in new location, and if by reason of a change in such location the company is unable to obtain conveyance of the lands covered by its agreement with the city the application fails.

863. Application of the Kingston and Pembroke Railway Company, under sections 227, 228 and 229 of the Railway Act for an order amending order of the Rail-

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way Committee of the Privy Council, dated November 2, 1895, and order dated September 10, 1896, amending same and directing that the station master of the Kingston and Pembroke Railway at Harrowsmith be no longer responsible that trains and engines on the Bay of Quinte are not allowed to pass the crossing in said order named unless the distant signals on the Kingston and Pembroke Railway are first set at danger, and that the trains and engines of the Kingston and Pembroke are not allowed to pass the said crossing unless the distant signals of the Bay of Quinte Railway are first set at danger, and that such responsibility be placed upon and borne by the Bay of Quinte Railway. (Application 70. Case 2895.)

Stands for further consideration.

864. Application of Edward Scott Brennen, of the city of Hamilton, Ontario, in the county of Wentworth, for an order, under section 26 of the Railway Act, for a writ of sequestration to be issued to sequester the goods, chattels and personal estate and the rents, issues and profits of the real estate of the Grand Trunk Railway Company.

Also for an order that the said company pay him \$6,731.96, being the amount shown in statement of damages delivered by the applicant to the Grand Trunk Railway on the 15th day of February, 1907, and for such further or other order or relief as the circumstances may require and the Board deems best. (Application 2001.)

Application dismissed.

865. Application of the Grand Trunk Railway Company of Canada, under sections 176 and 227 of the Railway Act, authorizing it to connect the branch line of railway which it was authorized to construct by order of the Board, dated July 25, 1906, extending from a point on its railway south of the concession road between the 6th and 7th concession of the township of Crowland, in the county of Welland, Ontario, thence northwesterly and along, upon and across the said concession road to the premises of the Ontario Iron and Steel Company, Limited, situate on lot 25 in the said concession of the said town, with the branch line of railway to the said premises of the Ontario Iron and Steel Company which the Michigan Central Railroad were authorized to construct by order of the Board, dated 27th October, 1906. (Application 2497. Case 3117.)

Application granted. Order issued.

866. The application of the Grand Trunk Railway Company of Canada, under sections 256 and 257 of the Railway Act, directing the Canadian Pacific Railway Company to reconstruct and maintain in a good and proper condition of repair the subway carrying the line of the Brockville and Ottawa Railway (now owned and operated by the Canadian Pacific Railway Company) under the main line of the applicant company's railway at mile post 124.96, a short distance east of the applicant company's station in the city of Brockville, Ontario, so that the same shall be safe for the passage thereover of the traffic on the applicant company's railway, and also directing the Canadian Pacific Railway Company to repay to the applicant company the amounts heretofore expended by it in making repairs in the said subway. (Application 6972. Case 3015.)

Order made authorizing applicant company to reconstruct at the subway, at the expense of the Canadian Pacific Railway.

867. Application of the municipal corporation of the township of Saltfleet, in the county of Wentworth, Ontario, for an order under section 187 of the Railway Act of 1903, directing the Toronto, Hamilton and Buffalo Railway Company to build and maintain a subway for vehicles under their railway near its intersection with the Lee Mountain road in the said township. (Application 6892. Case 2943).

Application refused. Leave granted township to make fresh application. Subsequently order made directing certain changes and alterations at the crossing at the expense of company.

868. Application of the Grand Trunk Railway Company of Canada, under section 227 of the Railway Act, for leave to cross with its second track the track of

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the United Counties Railway (operated by the Quebec, Montreal and Southern Railway) at St. Hyacinthe Junction, P.Q. (Application 6954. Case 2991.)

Application granted. Order issued. Expense to be borne by the Montreal and Southern Railway.

869. Application of the Canada Atlantic Railway Company, as lessees of the Central Counties Railway Company, for leave to construct, maintain and operate a branch line of railway and six spurs, extending from a point on its railway in the town of Hawkesbury to the premises of the Riordon Paper Mills Company, North Main street, in the said town, as shown on plan and profile filed. (Application 6253. Case 2646.)

NOTE.—In conjunction with this application will also be heard the application of the Canadian Northern Ontario Railway Company to construct a branch line to the Riordon Paper Mills, and the application of the Canadian Northern Railway Company to connect its spur with the Grand Trunk tracks at the Riordon paper mills.

Application granted. Order issued.

870. Application of the Canadian Pacific Railway Company, under sections 222 and 227 of the Railway Act, for an order granting the authority of the Board to construct, maintain and operate a branch line of railway, or spur, from a point on its most southerly track northwest of its stock yards on the Richmond road, in the city of Ottawa, situated about 340 feet northeasterly from the northwestern side of said Richmond road, and thence northeasterly and easterly through its station yard, across the property of Mr. William J. Campbell, and across the track of the Grand Trunk Railway on northwest side of said Richmond road, to and into the property of William J. Campbell, to a connection with a spur of said Grand Trunk Railway on the property of said William J. Campbell, for a total length of 570 feet. (Application 5504. Case 2147.)

Application granted. Order issued.

871. Application of the Canada Atlantic Railway Company, under sections 222 and 227 of the Railway Act, for authority to construct, maintain and operate a branch line of railway or siding extending from a point on the applicant company's line of railway on the Richmond road in the city of Ottawa, province of Ontario, thence northeasterly across parts of lots 38 and 39, concession A, township of Nepean, now in the city of Ottawa, to the premises of W. J. Campbell. (Application 5662. Case 2291.)

Application granted. Order issued.

872. Application of the city of Ottawa and the corporation of the county of Carleton, under sections 237 and 238 of the Railway Act, for an order directing the Canada Atlantic Railway Company, the St. Lawrence and Ottawa Railway Company, the Canadian Pacific Railway Company and the Montreal and Ottawa Railway Company to submit to the Board a plan and profile of such portions of their respective railways as are constructed across the Richmond road, a public highway, in the city of Ottawa, and directing the construction by the said railway companies, or by some or one of them, of such works as may be necessary to carry the said highway over their said railways and such change in the location of the portions of their said railways which cross the said highway as may facilitate the construction of the said 5662. Case 2291.)

Application granted. Order issued. Work to be completed by July 1, 1909. Costs to be apportioned as follows: —

$\frac{1}{36}$ by county of Carleton.

$\frac{9}{36}$ by city.

$\frac{1}{39}$ by county of Carleton.

873. Application of the Grand Trunk Railway Company of Canada, under the Railway Act, for an order settling the terms of the lease which the applicant com-

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pany was directed to make to the Canadian Pacific Railway Company under paragraph 6 of the order of the Board, dated the 11th July, 1905, made upon the application of the Guelph and Goderich Railway Company for leave to take possession of, use and occupy certain lands and premises belonging to the applicant company, in the city of Guelph, province of Ontario. (Application 1308. Case 2303.)

Settled by parties.

874. Application of the Canadian Pacific Railway Company under section 227 of the Railway Act for an order authorizing the crossing of the tracks of the Grand Trunk Pacific Railway by its Pheasant Hills branch, by means of an overhead bridge at mileage 457.1 of the said Pheasant Hills branch, section 27, township 40, range 23 west of the 3rd meridian. (Application 5538. Case 2183.)

Application granted. Order issued.

875. Application of the corporation of the city of Ottawa for an order under section 30 of the Railway Act, directing the Canadian Pacific Railway Company, the Grand Trunk Railway Company and the New York Central Railway Company to so construct all locomotive steam engines used by the said companies on their railways within the city of Ottawa as to consume their own smoke or as to prevent the emission therefrom of dense or opaque smoke, or to use upon the said engines such appliances as will prevent the emission therefrom of dense or opaque smoke, or to use in connection with such locomotive steam engines smokeless coal or coal which will not produce dense or opaque smoke. (Application 6595. Case 3023.)

General order issued covering this and similar applications. Order to take effect January 1, 1909.

876. Application of the municipality of Delta for an order allowing costs incurred by the municipality in connection with the application of the Vancouver, Victoria and Eastern Railway and Navigation Company, for leave to carry its railway along river road, on the south bank of the Fraser river, municipality of Delta, British Columbia. (Application 4307. Case 967.)

Applications granted. Costs to be fixed by secretary of previous application.

877. Application of the Grand Trunk Railway Company of Canada for an order under section 29 of the Railway Act, varying or amending paragraph 5 of the order of the Board, dated the 5th April, 1904, made upon the application of the Niagara, St. Catharines and Toronto Railway Company for an order to rescind or vary an order of the Railway Committee of the Privy Council, bearing date the 27th day of April, 1898, approving of the place and mode of crossing by the branch line from the Grand Trunk Railway Company's main line at the village of Merritton, to the paper and cotton mills in that village, of the main line of the Niagara, St. Catharines and Toronto Railway, by requiring the Niagara, St. Catharines and Toronto Railway Company to place and maintain a watchman at the said crossing between the hours of 8 a.m. and 6 p.m. of each day, not including Sundays, instead of between the hours of 8 a.m. and 8 p.m. of each day, not including Sundays, as in said clause mentioned, and that the wages of the watchman employed at said crossing shall not exceed twelve and a half (12½) cents per hour. (Application 397. Case 1251.)

Application dismissed.

878. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 227 of the Railway Act for authority to construct, maintain and operate a branch line of railway and spurs therefrom extending from a point on the applicant company's railway in the city of Hamilton, east of the point where the Toronto, Hamilton and Buffalo Railway's (belt line) industrial spur passes under the tracks of the applicant company, from Hamilton to Niagara Falls, thence westerly, crossing by means of an overhead bridge the tracks of the Toronto, Hamilton and Buffalo Railway's (belt line) industrial spur to the premises of the Berlin Machine Works, Limited. (Application 6664. Case 2818.)

Settled by agreement between the parties.

(Subsequently)—Application granted. Order issued.

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879. Application of the Canadian Northern Ontario Railway Company, under section 317 of the Railway Act, for an order directing the Grand Trunk Railway Company and the Canadian Pacific Railway Company to provide facilities for passengers desiring to travel from or through points on the lines of the respondent companies, or either of them, to points on the line of the applicant company and its connections, and to issue tickets at through rates accordingly. (Application 6812.)

Order made that application company and respondent company publish and file tariffs of joint passenger tolls to apply on passenger and traffic interchange between the said companies other than that having its origin at the respondent company's points or with companies that connect and deliver to respondent company and destined to points common to applicant company's and respondent company's lines. The other requests contained in the application refused.

880. Complaint of the Fredericton board of trade respecting freight tariffs in force by railways in Canada on goods coming to Fredericton, New Brunswick, from points west of Montreal, Quebec, as against freight rates from the same points in the west to St. John, New Brunswick, and St. Stephen, New Brunswick. (Application 1600.)

Order issued directing Grand Trunk Railway to restore to Fredericton the St. John basis of rates on traffic originating west of Montreal.

881. Application of the Railway Trainmen of Ontario to consider and settle the proposed uniform code of train rules. (Application 1750.)

NOTE.—The Board will also consider at the above sittings the following matters submitted by the joint committee of the legislative board of the Brotherhood of Railroad Trainmen as follows:

1. That company employees be allowed to attend investigations held by the Board's inspectors of accidents, on request of witness.

2. That witness fees to be paid at such investigations be increased.

3. That the Board order an increase in the number of men on trains for flagging purposes.

4. That telegraph operators be not employed under the age of twenty-one and evidence be furnished of their having one year's experience in railroad work.

5. That the Board's inspectors be required to ride on and inspect the conditions of locomotives.

6. That all engines be equipped with dump ash pans such as will avoid the necessity of a man going under the engine to clean the same.

The Board will also consider the following matters presented to it by memorial through the Ontario Brotherhood of Railroad Trainmen:—

1. That all brakes, dogs and ratchets be placed on the top of the car instead of on the step at the end of the car.

2. That all cars used as caboose be equipped with air-brakes, gauge, conductor's valve, platform, steps and cupola.

3. That operating levers be placed on both sides of the draw-bar along the end of the car

4. That no obstructions be piled on the tops of any box cars while being hauled by the train crew.

5. That any order requiring men to ride on the top of trains be abolished.

6. That safety hand-holds and steps be placed on engines.

7. That obstructions and structures be placed not less than six feet clear of rail.

8. That not less than five men be placed on any train, and not less than three men on light engines.

9. That there be a car limit as to number.

10. That passenger brakemen have one year's experience in yard or freight service.

11. That steps be taken to prevent the handling of crippled cars on trains, except on wreck trains.

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Order issued, for terms of which see first portion of annual report, page 48.

882. Application of the Saraguay Electric Light and Power Company, under section 246 of the Railway Act, for leave to carry power transmission lines across the tracks of the Grand Trunk Railway at Côté St. Paul road, Turcot village, Quebec. (Application 6351. Case 2684.)

Application granted and order issued.

883. Application of the corporation of the city of Peterborough, under sections 237 and 238 of the Railway Act, directing the Canadian Pacific Railway Company to provide for the protection and maintenance of the highway at the level crossings of the said railway with Aylmer street in the city of Peterborough. (Application 6580. Case 2786).

NOTE.—The question for consideration in connection with the above application is the apportionment of the cost of the protection of the said crossing referred to in the letter of the city solicitor, Peterborough, dated 10th April, 1908, and the letter of C. Drinkwater, assistant to the president Canadian Pacific Railway, in connection with the report of the Board's chief engineer, dated 24th March, 1908.

Application granted. Cost of watchmen to be borne as follows:

$\frac{3}{4}$ by the railway company.

$\frac{1}{4}$ by the city.

884. Application of the corporation of the City of Peterborough, under sections 237 and 238 of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada, to provide protection at the level highway crossing of the said railway at Reid street in the city of Peterborough. (Application 6581. Case 2785.)

NOTE.—The question for consideration in connection with the above application is the apportionment of the cost of the protection of the said crossing, as referred to in the letter of the city solicitor, Peterborough, dated April 4, 1908, and the letter of M. K. Cowan, K.C., dated April 21, 1908, in conjunction with the report of the board's engineer, dated March 24, 1908.

Application granted. Order issued. Cost to be divided as follows:—

Two-thirds of cost of providing shelter and accommodation for watchmen and wages to be borne by the Grand Trunk Railway.

One-third by applicant.

885. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 237 of the Railway Act, for authority to construct, maintain and operate a branch line of railway or spur from a point on lot No. 157, parish of St. Blaise, Quebec, thence in a westerly direction across lot No. 158, in the said parish, the Grand Bernier road, and lot 157, to the premises of the People's Specialty Co., Grand Ligne. (Application 5910. Case 2485.)

Application granted. Order issued. Trains of applicant company to stop at crossing.

886. Application of the Southwestern Traction Company of London, Ontario, under section 246 of the Railway Act, for leave to erect, place and maintain transmission wires across the track of the Grand Trunk Railway Company at a point approximately one mile north of St. Thomas, at the road known as the Lynhurst road. (Application 5244. Case 1861.)

Application granted. Order issued.

887. Application of the Canadian Pacific Railway for an order amending order of the Board No. 3238, dated July 3, 1907, requiring railway companies in Canada subject to the Board's jurisdiction, to equip passenger coaches with two fire extinguishers. (Application 4739. Case 1858.)

Order issued amending previous order and providing for one fire extinguisher in each car.

888. Application of the Grand Trunk Pacific Railway, under section 159 of the Railway Act, for the approval of the location of its line through the city of Fort William. (Application 1519. Case. .)

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Stands pending approval of Bill 25, an Act respecting the joint section of the Canadian Pacific Railway Company and Grand Trunk Pacific Railway Company at Fort William, Ontario, by Parliament of Canada.

889. Application of the Canadian Northern Railway Company, under section 45 of the Railway Act, for order amending order of the Board No. 558, dated July 18, 1905, approving and sanctioning the location of the Canadian Pacific Railway (Wolsely-Reston branch) so far as it affects the land covered by the Hartney-Regina branch of the applicant company. (Application 1539. Case 2458.)

Application dismissed.

890. Application of the Grand Trunk Pacific Railway Company, under section 227 of the Railway Act, for leave to cross the track of the Canadian Pacific Railway Company (Pheasant Hills branch), section 27, township 29, range 22, west of the 2nd meridian, Saskatchewan. (Application 5485. Case 2108.)

Order made declaring Canadian Pacific Railway senior company, and directing applicant company to bear all expenses.

891. Application of the stone quarry operators for an order, under section 323 of the Railway Act, disallowing the proposed increase in freight rates for the carriage of stone upon the railways of the Canadian Pacific Railway and the Grand Trunk Railway Company. (Application 4456. Case 2965.)

Application dismissed. Order, however, contained provision that stone rates of the said railway companies from the towns of Galt, Guelph, Niagara Falls, Longford, St. Marys and Ivanhoe to Toronto and common points do not exceed rates from other quarry points of similar or greater distances, and that the present rates in force be amended accordingly.

892. Application of the Morang Educational Company, Limited, of Toronto, Ontario, under section 327 of the Railway Act, for an order fixing a proper freight classification throughout Canada for public school books. (Application 7338. Case 3203.)

Order made amending car classification No. 13, by the addition of C. L. rating of third class on books in boxes or cases. Order effective May 20, 1908.

893. Application of the Winnipeg Jobbers' and Shippers Association, under the Railway Act, for an order directing that railway companies (a) where the traffic warrants it to erect a freight shed and appoint a permanent agent in charge of the business at such station; (b) not to reduce any regular station with an agent in charge to a flag station without an agent; (c) not to close any regular or flag station without the approval of the Board of Railway Commissioners. (Application 4205. Case 871.)

Partially dealt with by judgment of the Chief Commissioner, dated the 2nd November, 1908. The companies required to appoint and maintain permanent agents at stations where the total freight and passenger earnings amount to \$15,000 per year, and at points where the business consists of shipping grain where such shipments amount to at least 50,000 bushels per year, and at points of shipment where telegraph operators are located for handling of trains, such operators should be provided with the necessary equipment to take care of traffic.

894. Application of the Canadian Northern Quebec Railway Company for an order, under sections 222 and 237 of the Railway Act, for authority to (a) construct a spur line to the Lakefield Portland Cement Company on lot 74, parish of Pointe aux Trembles, county of Hochelaga; (b) and cross with the said spur the intervening tracks of the Montreal Terminal Railway Company. (Application 7109. Case 3079.)

Application granted. Order issued.

895. Application of the Canadian Pacific Railway Company, under section 194 of the Railway Act, 1903, for an order that the Peoples' Telephone Company be required to substitute wires for the existing iron wires that cross the right of way of

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the railway company on College street in the village of Lennoxville, Quebec. (Application 4052. Case 722.)

Order made directing telephone company to standardize crossing.

896. Application of the town of Notre Dame de Grace, under section 250 of the Railway Act, to construct a sewer under the tracks of the Grand Trunk Railway Company, near the village of Turcot, Quebec. (Application 6891. Case 2964.)

Application granted. Order issued. Work to be done under supervision of Grand Trunk Railway engineer. Expenses of engineer to be paid by applicants.

897. Application of the Canadian Pacific Railway Company, under section 256 of the Railway Act, for approval of the plans of the proposed abutments and piers under existing bridge at mileage 19.86, Farnham section crossing, Richelieu street, St. Johns, province of Quebec. (Application 5133. Case 2893.)

Application granted. Order issued.

898. Application of the Peoples' Telephone Company for an order, under section 245 of the Railway Act, directing the Canadian Pacific Railway Company to permit the applicants to make telephonic connection and communication with the ticket office in the station and with the freight office of the said company in the city of Sherbrooke. (Application 6639. Case 2897.)

Judgment reserved.

Subsequently general form of order for this and like applications settled upon and order in this case granted.

899. Complaint of Dr. Charette, mayor of Notre Dame des Neiges, of the failure on the part of the Montreal Park and Island Railway Company to file and receive approval by the Board of its standard passenger tariffs, and that the Montreal Park and Island Railway Company charges passenger fares of 5 cents each from points in the city of Montreal to Dellingham avenue, and an additional 10 cents each from Dellingham avenue to Côté des Neiges, while it previously sold tickets at the rate of 6 for 25 cents for transportation to Notre Dame des Neiges. (Application 6320.)

Order made dismissing the complaint.

900. Application of the Napierville Junction Railway Company, under section 277 of the Railway Act, for leave to join its tracks with the tracks of the Canadian Pacific Railway Company, and to cross the tracks of the Canadian Pacific Railway Company at a point one mile east of St. Constant station, on the line of the Canadian Pacific Railway. (Application 5076. Case 2364.)

Settled in the terms of agreement between the parties filed with Board.

901. Application of the Grand Trunk Railway Company of Canada, under section 227 of the Railway Act, for authority to cross with two tracks leading from its main line at Turcot to its new freight yards and terminals at Turcot, the tracks of the Montreal Park and Island Railway Company at two different points, namely, near the eastern and western extremities of said freight yards. (Application 6023. Case 2564.)

Application removed from list. Leave granted to either party to reinstate on ten days' notice.

902. Application of the corporation of the village of Papineauville, in the county of Labelle, in the province of Quebec, for an order granting leave to the applicants to construct a street crossing on the tracks of the Canadian Pacific Railway between Papineau avenue No. 122 of the Cadastre of the parish of Ste. Angelique and the lots Nos. 103, 98 and 99 of the said cadastre, and ordering that the railway company supply and construct the said crossing. (Application 5545. Case 2507.)

Application granted. Cost of maintaining crossing between tracks to be borne by railway company.

903. Complaint of Joseph Legault with regard to cement culverts of the Grand Trunk and Pacific Railway Companies on lots 50 and 51 cadastral, parish of Pointe Claire, near Lakeside station, Quebec. (Application 6063.)

Complaint withdrawn.

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904. Application of the Canadian Pacific Railway Company, under sections 221, 222, 227 and 237 of the Railway Act for leave to construct branch lines in the city of Montreal, Quebec—

1. To the premises of Shearer, Brown & Wallace, crossing St. Patrick and Island streets; and

2. To the premises of the Sherman-Williams Paint Company, crossing St. Patrick street and connecting with spur of the Grand Trunk Railway Company. (Application 5508. Case 2154.)

Application granted. Order issued subject to the conditions set forth in the order.

905. Complaint of the Truro Condensed Milk Company, Limited, against the Grand Trunk Railway Company of Canada, with respect to rates and service on milk shipments. (Application 4838.)

Complaint dismissed.

906. *In re* protection of the crossing of the tracks of the Grand Trunk Railway Company of Canada by the tracks of the Canadian Pacific Railway Company in the village of Lennoxville, Quebec. (Application 419.)

Order made directing Grand Trunk Railway to install interlocking plant May 15, 1908. Cost to be borne by Grand Trunk Railway.

907. Application of the Canadian Northern Ontario Railway Company, under section 237 of the Railway Act, for authority to place a second track across Winchester street, at rail level, Toronto, Ontario. (Application 5346. Case 1979.)

NOTE.—This application is set down for the purpose of settling the terms and conditions on which order shall issue herein.

Application granted. Order issued. Crossing to be protected by gates and watchman at the expense of the applicant company, with leave to the city to apply to protect the crossing by means of a bridge.

908.—*In re* complaint of the municipal council of the town of Bowmanville, Ontario, regarding unprotected state of the railway crossing directly east of the Grand Trunk Railway Company's station on the leading road from the town to the lake, commonly known as the wharf road. (Application 7292.)

Application refused.

909. Application of the Canadian Pacific Railway Company, as lessee exercising the franchises of the Toronto, Grey and Bruce Railway Company, under section 237 of the Railway Act for an order authorizing it to cross, with its grade revision, already approved, the road allowance between lots 10 and 11, concession 8, township of Vaughan, county of York, Ontario, at mile 12.55 of the said revision. (Application 6373. Case 2698.)

NOTE.—This application is set down for the purpose of settling the terms and conditions on which order shall be issued herein.

Order made granting application to cross by means of a subway. Expense of excavation to be borne by the township of Vaughan.

910. Application of the Grand Trunk Railway Company of Canada, under section 227 of the Railway Act, for leave to cross with its additional track on Ferguson avenue, Hamilton, Ontario, which the applicant company was authorized to construct by order of the Board, No. 3977, dated October 30, 1907, the two tracks of the Hamilton Street Railway Company on Barton street, where it is intersected by Ferguson avenue, Hamilton, Ontario. (Application 5824. Case 2426.)

NOTE.—This application was set down for the purpose of settling the terms and conditions on which order should issue herein.

Order made settling terms and conditions of crossing. Crossing to be protected by one-half interlocker.

Cost of installation to be borne by Hamilton street railway.

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911. Application of the municipal council of Weston *in re* Grand Trunk Railway bridge crossing the Weston road at the north end of the town. (Application 4393. Case 1046.)

Application dismissed.

912. Application of the Grand Trunk Railway Company of Canada, under section 29 of the Railway Act, for an order amending the order of the board, dated July 14, 1904, made upon the application of the Preston and Berlin Street Railway Company, Limited, authorizing that company to cross with its track the spur line of the Grand Trunk, running from the main line in the town of Waterloo and crossing Wilnot street and the switches leading from the said spur line of the Grand Trunk by Charles and Joseph streets, in the town of Berlin, by directing the said Preston and Berlin Street Railway Company, Limited, at its crossing of the Grand Trunk's Charles street spur to install derails in the Preston and Berlin Street Railway main tracks and spurs therefrom. (Application 718. Case 2505.)

Application dismissed.

913. Application of William J. Miller and Benjamin F. Miller, under section 198 of the Railway Act, 1903, for an order directing the Michigan Central Railroad Company (or the Canada Southern Railway) to provide and construct a suitable farm crossing where the said railway intersects lot 10, in the 4th concession, township of Bertie, county of Welland, Ontario. (Application 6403. Case 2724.)

Application dismissed.

914. Application of the Walkerton and Lucknow Railway Company, under section 227 of the Railway Act, for an order granting authority to construct, maintain and operate certain railway crossings and junction in the town of Hanover, Ontario, in connection with said spurs in said town marked L-1, L-2, and the spur to the furniture factory, as shown on plan filed with the Board, the first of said crossings being a crossing of the narrow gauge track of the Hanover Portland Cement Company by the spur marked A-1; and the second of said crossings being a crossing of a track operated by the Grand Trunk Railway Company on land belonging to said Hanover Portland Cement Company, and being at chainage 1455-07 of said spur L-2, the said junction being a junction with a track operated by the Grand Trunk Railway Company, as a spur to the furniture factory at a point opposite the property belonging to J. Campbell on John street, opposite lot 87 on the eastern side of said John street, said point of junction being at chainage 1458-58.3 of said spur to the furniture factory. (Application 6819. Case 2905.)

Application granted.

915. Application of the Walkerton and Lucknow Railway Company, under section 222 of the Railway Act, for an order authorizing the construction, maintenance and operation of branch lines in the town of Hanover, Ontario, from a point on its main line, being a point on lot 6, to a point in lot 3, to the premises of the furniture company, and also, firstly, from a point in lot 4, to a point in lot 2, and, secondly, from a point in lot 3 to a point in lot 2, being for the purpose of reaching the premises of the cement company and making connection with the tracks of the Grand Trunk Railway at this point, the whole being in the town of Hanover, concession 1, N. township of Bentinck, county of Grey, Ontario. (Application 6400. Case 2420.)

Application granted.

916. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 237 of the Railway Act, for an order authorizing it to construct, maintain and operate five branch lines or sidings which have been constructed at the town of Hanover, Ontario—two for the Hanover Portland Cement Company, Limited, and the remainder for the Knechtel Furniture Company, Limited. (Application 6743. Case 2854.)

Application granted.

917. Application of the Walkerton and Lucknow Railway Company, under section 178 of the Railway Act, for authority to take additional lands adjoining their

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railway in the village of Priceville and township of Artemisia, Ontario, for the convenient accommodation of the public and of the traffic on its railway, and to secure the efficient construction, maintenance and operation of the railway. (Application 6818. Case 2904.)

Application granted. Order issued.

918. Application of the Grand Trunk Railway Company of Canada, for an order under the Railway Act authorizing it to cross with its second track from North Parkdale station to Toronto Junction, which it was authorized to construct by order of the Board No. 3163, dated May 22, 1907—

1. The track of the Owen Sound section of the Canadian Pacific Railway Company.

2. The tracks of the Ontario and Quebec Railway, now leased and operated by the Canadian Pacific Railway Company, at a point east of Weston road, in the town of Toronto Junction, Ontario.

3. To move easterly from its present position the track of the Owen Sound section of the Canadian Pacific Railway, where the same crosses Weston road in the town of Toronto Junction, Ontario. (Application 6071. Case 2584.)

Order made granting the application in terms set forth in order.

919. Application of the corporation of the town of Waterloo, Ontario, for an order, under sections 30 and 32, repealing, rescinding, or varying on order made by the Railway Committee of the Privy Council, dated September 27, 1894, and directing the Grand Trunk Railway Company to furnish further protection by means of gates or otherwise at the crossing at King street, Waterloo, Ontario. (Application 5728. Case 2338.)

Order issued directing protection by gates. Cost of installation, maintenance and operation to be divided among the three corporations interested.

920. Application of the Canadian Pacific Railway Company, under section 186 of the Railway Act, 1903, for leave to cross with its Sudbury-Kleinburg branch, certain highways in the township of Vespra, county of Simcoe, Ontario. (Application 3911. Case 605.)

921. Application of the city of Hamilton, under sections 30 and 269 of the Railway Act, for an order prohibiting the Grand Trunk, the Toronto, Hamilton and Buffalo, and the Canadian Pacific Railway Companies from using soft coal on locomotives used by them for shunting purposes, within the limits of the city of Hamilton, and directing that anthracite coal only be used on such locomotives. (Application 5807. Case 2408.)

Covered by general order.

922. Application of the corporation of the city of Hamilton for an order, under the Railway Act, directing the Toronto, Hamilton and Buffalo Railway Company and the Canadian Pacific Railway Company to provide and construct a suitable highway bridge over the tracks of the company at the intersection of the line of the company at Garth street, in the city of Hamilton, Ontario. (Application 1592. Case 2739.)

Order made directing Toronto, Hamilton and Buffalo Railway Company to provide a highway bridge.

923. Application of the Niagara, St. Catharines and Toronto Railway Company, under the Railway Act, for an order authorizing the company to close up or divert the street or road in the town of Thorold known as Welland avenue, in the manner and as shown on the plan showing the proposed closing up or deviation. (Application 6811. Case 2901.)

Application refused.

924. Application of the Grand Trunk Railway Company of Canada, under subsection (x) of section 3 of the Lord's Day Act, 6 Ed. VII, cap. 27, permitting the said company by its servants, workmen, and agents, in order to prevent undue delay to traffic, to do any Sunday, work incidental to the continuance to its destination of

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freight in transit at the beginning of such Sunday, notwithstanding that the cars containing such freight and forming part of any train so in transit, may not have a common destination, but may require to be switched, shunted or otherwise dealt with at railway yards, divisional, or other points, for the purpose of being sent on to their several destinations.

And for an order also permitting the said company to do such work upon any Sunday as may be necessary for the purpose of furnishing to persons engaged in any manufacturing or other industry, or to shippers of live stock, a continuous railway service without which such persons would be unduly hampered and delayed in their said business.

And for such further and other order as to the Board may seem meet upon the evidence to be adduced before them. (Application 5689. Case 2460.)

Order made granting leave to Grand Trunk Railway to unload grain at lake ports between September 15 and June 1 of the year following upon the Lord's Day, and to do work for such purpose necessary to furnish a continuous service; also that all other companies carrying grain from Ontario lake ports be granted the same privilege.

925. Application of the corporation of the city of Toronto, under sections 237 and 238 of the Railway Act, for an order directing the Grand Trunk Railway Company to provide and maintain gates and a watchman at the crossing at Bloor street west by the tracks of the Northern Division of the Grand Trunk Railway Company of Canada. (Application 6791. Case 2891.)

Order made directing Grand Trunk Railway to establish gates within six months. Applicants to pay half the cost of installation and maintenance.

926. Application of the city of Toronto, under sections 237 and 238 of the Railway Act, and under section 5 of the Esplanade Tripartite Agreement, dated July 26, 1892, for an order directing the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company to properly plank between the tracks of the respective companies at the crossing of Church street, Toronto, and also to protect the said crossing by gates and watchmen. (Application 6955. Case 2993.)

Order made requiring railway companies to keep a flagman at crossing from April 15, to November 15 each year between 7 a.m. and 7 p.m. Cost to be borne by railway companies.

927. Application of the Toronto Suburban Railway Company, for an order amending order of the Railway Committee of the Privy Council dated November 22, 1892, and May 10, 1893, by fixing the responsibility for the protection of the said crossing of the Toronto Suburban Railway Company over the line of the Grand Trunk Railway Company and the Canadian Pacific Railway Company upon the said companies, and reducing the amount to be paid by the Toronto Suburban Railway Company towards the construction, maintenance, and protection of the said crossings as fixed by the said orders of the Railway Committee. (Application 132. Case 1353.)

Order made directing amendment of original order and apportioning cost as follows:—

$\frac{1}{4}$ by applicant company.

$\frac{1}{4}$ by city.

$\frac{1}{4}$ by Grand Trunk Railway.

$\frac{1}{4}$ by Canadian Pacific Railway.

928. Complaint of the city of Toronto, Ontario, in *re* protection at crossing of Queen street east, Don, Toronto, Ontario. (Application 43).

Complaint dismissed.

929. Complaint of H. L. Drayton, K.C., in *re the* level crossings of the Grand Trunk Railway Company at Windermere and Ellis avenues, in the township of York, Ontario. (Application 6994. Case 3026.)

Reserved until Toronto viaduct question is settled.

930. Application of the Ingersoll Telephone Company for an order, under section 245 of the Railway Act, permitting the applicant company to install a telephone

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in the station of the Canadian Pacific Railway Company at Ingersoll, Ontario. (Application 6910. Case 2961.)

Application granted.

931. Application of the Canadian Pacific Railway Company, under section 221 of the Railway Act, for authority to construct, maintain and operate a branch line or spur from a point on its main line in the city of Toronto, about eighty feet northeasterly from the eastern side of Beachall street, and thence southwesterly across said Beachall street and across property belonging to the Ontario and Quebec Railway Company to Front street, and thence easterly along the southern side of Front street for a total distance of about 5,200 feet to the eastern side of Jarvis street, in the said city. (Application 4369. Case 1026.)

Application dismissed.

932. Application of the Toronto Suburban Railway Company, under the Railway Act, for an order restraining the Toronto and Niagara Power Company from maintaining and operating its power transmission lines and telephone lines over the tracks of the Toronto Suburban Railway Company at Weston road, immediately north of St. Clair avenue, in the town of Toronto Junction. (Application 3793. Case 506.)

Application granted. Order issued.

933. Application of the Toronto Suburban Railway Company, under the Railway Act, for an order restraining the Toronto and Niagara Power Company from maintaining and operating its power transmission lines and telephone lines over the tracks of the Toronto Suburban Railway Company at Davenport road, in the town of Toronto Junction, near the crossing the northern division of the Grand Trunk Railway Company. (Application 3794. Case 507.)

Application granted. Order issued.

934. Application of the Toronto Suburban Railway Company, under the Railway Act, for an order restraining the Toronto and Niagara Power Company from maintaining and operating its power transmission lines and telephone lines over the tracks of the Toronto Suburban Railway Company at Bathurst street, in the township of York, immediately north of the Canadian Pacific Railway Company's tracks. (Application 3795. Case 508.)

Application granted. Order issued.

935. Application of the Grand Trunk Railway Company of Canada, under section 175 of the Railway Act, 1903, for authority to construct a branch line or siding, and two spurs therefrom, from a point on its line of railway at or about the foot of Fraser avenue; thence extending northerly along Mowat avenue, Toronto, to the establishment of the Toronto Carpet Company and the Malta Vita Food Company, as well as the property of the city of Toronto on the westerly side of Mowat avenue. (Application 3764. Case 489.)

Application granted. Order issued.

936. Application of Jane Prittie to vary or rescind order of the Board No. 2336, dated the 12th of December, 1906, authorizing the construction and operation of a branch line in the town of Toronto Junction to the premises of the Union Stock Yards, Limited. (Adjourned hearing.) (Application 2112. Case 2500.)

Application dismissed.

937. Complaint of J. W. Borsbery, under the Railway Act, in *re* construction of a branch line by the Oshawa Railway Company on May street and crossing King street, in the town of Oshawa, Ontario.

Complaint withdrawn.

938. Application of the Grand Trunk Railway Company of Canada, under section No. 277 of the Railway Act, for leave to cross with its spur the track leading off the twentieth district of the applicant company's railway, the spur track of the

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Canada Southern Railway in the applicant company's south yard at Fort Erie, Ontario. (Application 6883. Case 2913.)

Application granted. Order issued.

939. Application of the city of Toronto, under the Railway Act, for an order directing the Grand Trunk Railway Company of Canada, in accordance with the provisions of an agreement made between the applicants and the Grand Trunk, dated October 12, 1903, to protect, by means of gates and semaphores and derails in the tracks of the Toronto Railway Company, the crossing of Front street, in the city of Toronto by the Grand Trunk's branch line or siding to its John street freight yards, authorized to be constructed by order of the Railway Committee of the Privy Council, dated October 17, 1903. (Application 231. Case 3254.)

Order made directing protection of crossing by gates, semaphores and derails at expense of the Grand Trunk Railway Company.

940. Application of the Canadian Pacific Railway Company, under the Railway Act, for a proposed connection between the Canadian Pacific and Grand Trunk Railway Companies at Galt, Ontario. (Application 1380. Case 1731.)

Order made directing Canadian Pacific Railway Company to make connection at Galt before January 1, 1909. Cost to be borne by Canadian Pacific Railway Company.

941. Consideration of memorandum of judgment of the Board, dated December 26, 1907, *in re* interswitching, in conjunction with report of Chief Traffic Officer, dated December 18, 1907. (Application 6713. Case 2846.)

This application dealt with by general interswitching order.

942. Application of the boards of trade of Berlin, Galt, Preston, Hespeler and Waterloo, Ontario, under section 228 of the Railway Act, for an order directing the Canadian Pacific Railway Company, the Grand Trunk Railway Company, the Galt, Preston and Hespeler Street Railway Company and the Preston and Berlin Street Railway Company to connect their lines of tracks in the towns of Berlin, Galt, Preston, Hespeler and Waterloo, as to admit of the safe and convenient transfer or passing of engines, cars and trains from the tracks or lines of one of the above railways to those of the others, and that such connections shall be maintained and used by the said Canadian Pacific Railway Company, the Grand Trunk Railway Company, the Galt, Preston and Hespeler Street Railway Company and the Preston and Berlin Street Railway Companies, respectively.

Also to determine by what company or companies or other corporations or persons, and in what proportions the cost of making and maintaining any such connections shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another or any other railway or railways that might hereafter enter the said towns of Galt, Preston, Hespeler, Berlin and Waterloo. (Application Nos. 1762, 1763, 1758 and 1761. Cases 2394, 2393, 2392 and 2391.)

Application dismissed.

943. Complaint of the Canadian Manufacturers' Association, the Huntsville Lumber Company and others, under section 252, 253 and 254 of the Railway Act, 1903, against the Grand Trunk Railway Company of Canada *in re* interswitching charges at Toronto, Ontario. (Application 4459. Case 1356.)

Disposed of under general interswitching order.

944. Complaint of the W. Booth Lumber Company, Limited, Toronto, Ontario, *in re* interswitching charges of the Grand Trunk Railway Company at Toronto. (Application 4459. Case 1182.)

Disposed of under general interswitching order.

945. Application of the Winnipeg manufacturers (Canadian Manufacturers' Association) for an order that the transportation charges made by the Canadian Pacific and Canadian Northern Railway Companies in their established tariffs applying to and from their respective terminals in the city of Winnipeg be extended to

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cover the terminal switching expenses of the delivering or initial carriers, as the case may be, on non-competitive business in and out of the said city. (Application 4200. Case 865.)

Disposed of under general interswitching order.

946. Complaint of W. J. Lovering, lumber merchant, Toronto, *in re* interswitching charges of the Grand Trunk Railway Company at Toronto, Ontario. (Application 4459. Case 1126.)

Disposed of under general interswitching order.

947. Complaint of Messrs. Leak and Company, Toronto, Ontario, *re* interswitching charges of the Grand Trunk Railway Company at Toronto, Ontario. (Application 4459. Case 2230.)

Disposed of under general interswitching order.

948. Complaint of Messrs. T. Dexter and Son, of London, Ontario, *in re* switching charges of the Grand Trunk Railway Company on wheat to Canadian Pacific Railway at London from Point Edward to Goderich, Ontario. (Application 6799).

Disposed of under general interswitching order.

949. Complaint of the Boake Manufacturing Company, Limited, Toronto, *in re* interswitching charges of the Grand Trunk Railway Company at Toronto, Ontario. (Application 4459. Case 1217.)

Disposed of under general interswitching order.

950. Complaint of the Peterborough Sandstone Brick Company, Peterborough, Ontario, *in re* interswitching charges of the Canadian Pacific Railway Company and the Grand Trunk Railway Company at Peterborough, Ontario. (Application 5500. Case 2144).

Disposed of under general interswitching order.

951. Complaint of McColl Brothers and Company, oil merchants, Toronto, respecting release of responsibility demanded by the Canadian Pacific Railway Company on oil shipments to flag stations. (Application 6943.)

Application dismissed.

952. Complaint of the John Campbell Company, Limited, St. Thomas, Ontario, *re* interswitching charges of the Michigan Central Railroad Company at St. Thomas, Ontario. (Application 3991. Case 910.)

Order made fixing toll to be charged by railway company at \$3 per carload, refund to be made by railroad company of excess charged between 19th July, 1907, and the date of order with interest at five per cent.

953. Complaint of J. Malkin and Sons *re* freight rates on tan bark to Berlin and London, Ontario, from points on the line of the Grand Trunk Railway Company. (Application 3882.)

Application dismissed.

954. Application of the town of Lindsay, hereinafter called the 'applicants,' under the Railway Act, 1903, for an order directing the Grand Trunk Railway Company of Canada, the Lindsay, Bobcaygeon and Pontypool Railway Company, and the Canadian Pacific Railway Company as lessees of the Lindsay, Bobcaygeon and Pontypool Railway Company, to make all necessary arrangements and afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, and for the interchange of traffic between the said railways in the town of Lindsay, and for forwarding rolling stock from one of the said railways to the other, in the said town, and for the return thereof. (Application 1397.)

Case struck off the list.

955. Application of the Windsor, Essex and Lake Shore Rapid Railway Company, under the Railway Act, for an order directing the Pere Marquette Railway to interchange traffic with the Windsor, Essex and Lake Shore Rapid Railway Company at Kingsville, Ontario. (Application 6817.)

Covered by general interswitching order.

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956. Application of the Grand Trunk Railway Company of Canada, under section 29 of the Railway Act, for an order varying the order of the Board No. 358, dated February 23, 1905, authorizing the applicant company to take certain lands situate in the city of Toronto, for the purpose of a passenger station and passenger station yards therefor, and for such purposes as are necessary or usually connected therewith, by extending for the period of three years the times fixed in the said order for the commencement and completion of the station and appurtenances referred to in the said order. (File 588. Case 2828.)

Order made varying order No. 358 by extending time fixed by paragraph 4 for further period of 12 months from 22nd August, 1908.

957. Application of the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, in pursuance of paragraph 6 of order of the Board dated the 23rd February, 1905, for an order fixing the compensation to be paid by the Canadian Northern Railway Company (formerly the James Bay Railway Company), for the use of the Union station property at Toronto, including the service and accommodation provided, and at present and for some time past used and enjoyed by the Canadian Northern Ontario (formerly James Bay) Railway Company. (Application 588. Case 3208.)

Order made directing the Canadian Northern Ontario Railway to pay to Grand Trunk Railway amount fixed under agreement, 7th November, 1906, up to date of order. Companies to make arrangements between themselves for subsequent user and grounds.

958. Application of the city of Toronto, under the Railway Act, for an order compelling the Grand Trunk Railway Company of Canada to provide better protection at the level crossing known as the Sunnyside Crossing of the company's tracks at the western end of the city of Toronto, and for the lowering of the rate of speed of trains at the said crossing. (Application 4606. Case 1311.)

NOTE.—The Board will consider the question of the construction of a bridge at Sunnyside crossing and the appointment of the expenses thereof between the city and the railway companies interested.

Stands to be considered when Toronto viaduct application is disposed of.

959. Application of the corporation of the city of Toronto, under section 186 of the Railway Act, 1903, permitting the said corporation to construct a high level bridge crossing the Don improvement and the tracks of the Canadian Pacific and Grand Trunk Railway Companies crossing King street (or Queen street) east, in the city of Toronto, and for an order determining the proportion to be borne by the said railways and other parties interested of the costs and expenses incident to the construction and maintenance of said bridge, including damages to any property which may be injuriously affected thereby. (Application 1621.)

Stands to be dealt with when Toronto viaduct question decided.

960. Application of the Canadian Pacific Railway Company for authority to lay an extra track across the public road at Janetville, Ontario. (Application 5324. Case 2702.)

Order made granting leave to cross.

961. Application of the Essex Terminal Railway for authority to construct its railway across the Windsor, Essex and Lake Shore Rapid Railway on the gravel road, township of Sandwich, East, Ontario. (Application 3846. Case 544.)

Application granted. Order issued. Question of cost of providing and maintaining interlocking plant reserved until disposition of appeal to Supreme Court.

962. Application of the Canadian Northern Quebec Railway for authority to take part of lot No. 448 in the parish of St. Stanislaus for purposes of deviating highway on the west side of River Batiscan. (Application 3986. Case 3126.)

Order made granting application.

963. Complaint of the municipal council of the county of Victoria and township of Emily *re* Grand Trunk Railway station at Omemee, Ontario. (Application 1342.)

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Order made directing Grand Trunk Railway trains each way to stop at the outer or junction station, and certain other trains to stop at the new down-town platform. Service to commence September 15, 1908. Platform ordered on Sturgeon street.

964. Application of the Canadian Pacific Railway Company for authority to construct branch line to premises of Shearer, Brown and Wills and the Sherwin-Williams Paint Company, Montreal. (Application 5508. Case 2154.)

Application granted. Order issued.

965. Application of the Grand Trunk Railway Company for authority to construct a branch line to the premises of the George Matthews Company, Limited, Peterborough, Ontario. (Application 5653. Case 3022.)

Application granted. Order issued.

966. Application of the Ontario Power Company *re* crossing with transmission wires over the Grand Trunk Railway between concessions 6 and 7, lots 23 and 24, township of Crowland. (Application 7587. Case 330.)

Application granted. Order issued.

967. Application of the town of Montreal west and others, for an order directing the Canadian Pacific Railway to continue to maintain a public highway crossing between Crescent and Fenwick avenues, Montreal west, Quebec. (Application 7455. Case 3257.)

Application granted. Order made continuing the injunction. Compelling railway company to maintain public highway crossing.

968. Application of the Canadian Pacific Railway Company for authority to construct tracks across and along St. Patrick street and Atwater avenue, Centre street and River St. Pierre, Montreal, Quebec. (Application 6550. Case 2777.)

Application granted. Order issued.

969. Application of the Canadian Pacific Railway Company for authority to construct a spur to the premises of the Canada Sugar Refining Company, Montreal, Quebec. (Application 6352. Case 2685.)

Application granted. Order issued.

970. Application of the Canadian Pacific Railway Company for authority to construct its tracks across and along St. Patrick, Richmond and Richardson streets, Montreal, Quebec, in connection with Canada Sugar Refining Company spur. (Application 6352. Case 2776.)

Application granted. Order issued.

971. Application of the Canadian Pacific Railway Company for authority to construct a branch line to premises of Sherwin-Williams Paint Company, Montreal, Quebec. (Application 6350. Case 2683.)

Application granted. Order issued, subject to conditions set forth in order.

972. Application of the Canadian Pacific Railway Company for an order rescinding or varying order of the Railway Committee, dated May 18, 1898, *re* trestle bridge carrying branch line to Dickson's Mills, Peterborough, Ontario. (Application 3784. Case 500.)

Stands. Subsequently an order was issued dismissing the application.

973. Application of the Peterborough Radial Railway for an order amending order dated June 16, 1904, *re* Lock street, Peterborough, Ontario. (Application 650. Case 2996.)

Application granted. Amending order issued.

974. Application of the Canadian Pacific Railway Company for leave to construct branch lines in the town of Parry Sound, Ontario. (Application 3098.)

Order issued, granting application in terms of consent.

975. Application of the Canadian Northern Ontario Railway for authority to construct a branch line in the town of Parry Sound, Ontario. (Application 3939. Case 625.)

Order issued, granting application in terms of consent.

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976. Application of the Canadian Northern Ontario Railway for authority to construct and maintain a deviation of the Great North Road, Parry Sound, Ontario.

Application granted.—Order issued.

977. Application of the Grand Trunk Pacific Railway for authority to cross the tracks of the Winnipeg Electric Street Railway at Pembina highway, Winnipeg, Manitoba. (Application 6991. Case 3025.)

Application granted. Order issued. The protection to be agreed upon between parties.

978. Application of the Winnipeg Electric Railway for authority to cross with transmission wires the Canadian Pacific Railway tracks in St. Boniface, Manitoba. (Application 2290. Case 3077.)

Application granted. Order issued.

979. Application of the Winnipeg Electric Railway for authority to carry transmission wires across Canadian Pacific Railway tracks at Canadian Pacific Railway Lac du Bonnet branch, section 35, township 13, range 9, west of 1st meridian, Manitoba. (Application 2293. Case 3075.)

Application granted. Order issued.

980. Application of the Winnipeg Electric Railway for leave to carry transmission wires across Canadian Pacific Railway tracks in section 25, township 12, Manitoba. (Application 2291. Case 3075.)

Application granted. Order issued.

981. Application of the Winnipeg Electric Railway for authority to carry transmission wires across the Canadian Pacific Railway tracks in section 17, township 12, Manitoba. (Application 2292. Case 3074.)

Application granted. Order issued.

982. Application of the Canadian Northern Ontario Railway for authority to carry telegraph wires across Grand Trunk Railway tracks near Gamebridge, Ontario. (Application 3937. Case 623.)

Application granted. Order issued.

983. Application of the Canadian Northern Quebec Railway for authority to cross the tracks of the Canadian Pacific Railway east of Lorette, Quebec. (Application 5337. Case 1944.)

Application granted. Order issued.

984. Application of the Canadian Pacific Railway for an order fixing compensation to be paid by the Grand Trunk Railway for use and enjoyment of the right of way between Nipissing Junction and North Bay, including service and accommodation provided at present and since July 2, 1907. (Application 7439. Case 3243.)

Application dismissed. Leave granted to appeal to Supreme Court.

985. Complaint of J. R. Sonley, Blackwater, Ontario, *re* damage to his farm property by the Grand Trunk Railway. (Application 4539. Case 1209.)

Application dismissed.

986. Application of the town of Steelton, Ontario, for an order directing the Canadian Pacific Railway to operate a station with proper accommodation and facilities at Steelton, Ontario. (Application 1525. Case 3113.)

Application withdrawn.

987. Application of the Ottawa Electric Railway for authority to cross Chaudiere branch of the Grand Trunk Railway into the Export Lumber Company's yards, Ottawa. (Application 7263. Case 3134.)

Application dismissed.

988. Application of the city of Ottawa, Ontario, for an order amending order No. 3684, dated March 13, 1907, in *re* widening of Somerset street bridge, Ottawa, Ontario. (Application 326. Case 396.)

Application granted. Order issued directing bridge to be built within 6 months from date.

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989. Application of the Georgian Bay and Seaboard Railway for authority to cross the tracks of the Lindsay, Bobcaygeon and Pontypool Railway in the town of Lindsay, Ontario. (Application 3187.)

Application granted. Order issued.

990. Complaint of Dr. Charette, Notre Dame des Neiges, *re* Montreal Park and Island Railway. (Application 6320. Case 2864.)

Complaint dismissed.

991. Application of the Windsor, Essex and Lake Shore Rapid Railway for an order directing the Pere Marquette Railway to interchange traffic at Kingsville, Ontario. (Application 6817.)

Application struck off list. To be reinstated at request of applicant.

992. Application of the Quinze and Blanche River Railway for approval of location through part of the township of Guigues, Quebec, across Quinze river, through adjoining Indian reserve and township of Nedeles and through township of Casey, Harley and Dymont to New Liskeard, Ontario. (Application 7452. Case 3253.)

Application granted. Order issued.

993. Application of E. D. Smith, of Winona, Ontario, for joint freight tariffs between the railway companies at Hamilton and the Hamilton, Grimsby and Beamsville Electric Railway. (Application 6789.)

Application withdrawn.

994. Application of the Canadian Northern Ontario Railway, under section 194 of the Railway Act, for leave to erect, place and maintain its wires across the tracks of the Grand Trunk Railway north of Mount Albert, Ontario. (Application 3935 Case 621.)

Application granted. Order issued.

995. Application of the Grand Valley Railway, under section 59 of the Railway Act, for approval of its location between the city of Brantford and the city of Woodstock, Ontario. (Application 737. Case 3116.)

Application granted. Order issued.

996. Application of the Sarnia Street Railway, under section 235 of the Railway Act, for authority to cross the tracks of the Grand Trunk Railway at Sarnia, Ontario. (Application 7347. Case 3211.)

Application granted. Order issued on consent of all parties.

997. Application of the Guelph and Goderich Railway, under section 227 of the Railway Act, for authority to cross the tracks of a spur of the Grand Trunk Railway in the town of Listowel, Ontario. (Application 7540. Case 3286.)

Application granted. Order issued.

998. Application of the Canadian Northern Ontario Railway, for an order, under section 227 of the Railway Act, granting authority to place its lines or tracks across the lines or tracks of the Canadian Pacific Railway at a point on lot 11, concession 2, township of Nepean, county of Carleton, near Bell's Corners, Ontario. (Application 6254. Case 2647.)

Order made for overhead crossing, provision made for double tracking. If grade changed; extra expense caused to be borne by Applicant; or if disputed to be fixed by Board.

999. Application of the Canadian Northern Ontario Railway, under section 237 of the Railway Act, for authority to construct its railway across certain highways in the township of Clarence at mileages 29, 30, 31, 32 and 33 and across Mill street in the village of Rockland, Ontario. (Application 4843. Case 1526.)

Application granted. Leave reserved to corporation to apply for protection if works prove dangerous.

1000. Application of the Grand Trunk Railway, under sections 256 and 257 of the Railway Act, for an order directing the Canadian Pacific Railway to reconstruct and maintain in a good condition of repair the subway carrying the line of the Brockville and Ottawa Railway under the main line of the Grand Trunk Railway at mile

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post 124.96, a short distance east of the Grand Trunk Railway station in the city of Brockville, Ontario. (Application 6972. Case 3015.)

Order made for payment of amount to be expended by Grand Trunk Railway in repair of subway.

1001. Application of the Canadian Pacific Railway, under section 167 of the Railway Act, for an order to construct a new road from the proposed station location at mile post 22 on plan and profile filed with the Board, to the road that runs to the village of Bolton, Ontario. (Application 2023. Case 3235.)

Order made approving of location. Concrete culvert at forced road 5 x 6, gravel to be 10 inches thick, and equal to top dressing of Toronto and Sudbury line.

1002. Application of the Toronto and York Radial Railway, under section 227 of the Railway Act, for authority to cross the tracks of the Grand Trunk Railway at the village of Sutton, Ontario. (Application 7460. Case 3333.)

Application granted. Order issued.

1003. Application of the city of Toronto, under sections 237 and 238 of the Railway Act, and in accordance with the provisions of an agreement made between the applicants and the Grand Trunk Railway dated October 12, 1903, for an order requiring the Grand Trunk Railway to protect by means of gates, semaphores, and derails the tracks of the Toronto Railway Company at the crossing of Front street, Toronto, Ontario. (Application 231. Case 3254.)

Application granted. Order issued, derails to be placed 100 feet from crossing.

1004. Application of the Grand Trunk Railway for authority to cross with two tracks the tracks of the Montreal, Park and Island Railway at two different points near the eastern and western extremities of the new freight yards at Turcot, province of Quebec. (Application 6023. Case 2564.)

Application removed from list. Leave given to either party to reinstate on ten days' notice.

1005. Application of the Canadian Pacific Railway Company, under section 257 of the Railway Act, for leave to construct new bridge at mile 19.86, Farnham section crossing Richelieu street, St. Johns, province of Quebec. (Application 5133. Case 2893.)

Application withdrawn.

1006. Application of the Canadian Pacific Railway, under the Railway Act, directing that a case be stated for the opinion of the Supreme Court of Canada as to the legal effect of the covenant contained in deed from David S. Leach and Dame Jessie R. Leach to the Atlantic and Northwest Railway Company, dated 28th of June, 1888, in connection with the application of the town of Montreal West and others for an order directing the Canadian Pacific Railway to continue to maintain and operate a public highway crossing at lot official No. 138, parish of Montreal, province of Quebec, at a point where it has heretofore maintained the said railway crossing between Fenwick avenue on the one side and Crescent avenue on the other. (Application 7455. Case 3257.)

Application dismissed.

1007. Application of the town of Ingersoll, under section 227 of the Railway Act, for an order directing the Grand Trunk Railway to provide gates and day and night watchman at Thames street where the Grand Trunk Railway crosses same in the town of Ingersoll, Ontario. (Application 5087.)

NOTE.—The question to be considered is the apportionment of the cost reserved as to whether or not gates should be installed as well as watchman.

Application granted. Order made directing Grand Trunk Railway to erect gates to be operated from 6 a.m. to 11 p.m. daily. Cost of erecting, maintaining and operating to be borne by Grand Trunk Railway. Work to be completed within 45 days from November 10, 1908.

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1008. Application of A. Pilon, Casselman, Ontario, for an order fixing the additional sum to be charged by the Canada Atlantic Railway (Grand Trunk Railway) for switching and handling of traffic at his siding. (Application 5754. Case 2358.) Application dismissed.

1009. Application of the Sydenham Glass Company for the extension of the commodity rates on glass bottles prescribed in the judgment of the Board, dated July 30, 1904, so as to include glass jars. (Application 1827. Case 1109.)

Settled by Père Marquette Railroad filing supplement to joint tariff, providing for rate of 13 cents per 100 pounds on glass fruit jars from Wallaceburg to Hamilton, Ontario.

1010. Complaint of the British American Oil Company *re* refusal of the Grand Trunk Railway to carry crude oil originating at Stoy, Illinois, and destined to Toronto, Ontario, at fifth-class rate with official classification. (Application 7529. Case 3269.)

Judgment reserved. Delivered subsequent to March 31, after a re-hearing, and will appear in next annual report.

1011. Application of the Canadian Pacific Railway under sections 284 and 317 of the Railway Act, for an order directing the Grand Trunk Railway to receive passenger and baggage cars, and also deliver same at the junction of the tracks of the Ottawa, Northern and Western Railway and the Canada Atlantic Railway, near Sapper's bridge, Ottawa, Ontario. (Application 4887. Case 1541.)

Application stands to be disposed of with Grand Trunk Railway application in *re* compensation by Canadian Pacific Railway for use of Central station, Ottawa. Subsequently an order was made dismissing the application.

1012. Application of the Canadian Pacific Railway under provisions of certain cases from the Crown, fixing the terms and conditions under which the Canadian Pacific Railway may use the passenger station and passenger tracks and approaches in connection therewith, situated on ordnance lands of the Crown, that portion of the Rideau Canal reserve extending from Sappers bridge southward to Hurdman's bridge road, Ottawa, Ontario. (Application 3862. Case 415.)

Stands for judgment. Disposed of subsequent to March 31 after a rehearing, and will appear in next annual report.

1013. Application of the Grand Trunk Railway, under section 178 of the Railway Act, for authority to take for the purposes of its railway part of lots Nos. 73 and 74 on the south side of Chestnut street, in the village of Bridgeport (now known as Jordan), county of Lincoln, Ontario, and immediately opposite the Grand Trunk Railway station at Jordan, Ontario. (Application 7836. Case 3504.)

Application granted. Order issued. Full compensation to be made for the lands taken.

1014. In *re* application of the Windsor and Tecumseh Electric Railway, under section 177 of the Railway Act of 1903, for leave to cross the line or track of the Grand Trunk Railway on Sandwich street, Walkerville, Ontario, and also two spurs or sidings of the Grand Trunk Railway in the township of Sandwich East, county of Essex. (Application 3803. Case 514.)

Application granted. Order issued. Electric cars to slow down to four miles per hour at crossing and railway company to flag their cars across.

1015. Application of the Grand Valley Railway for authority to cross the tracks of the Grand Trunk Railway in the city of Brantford, Ontario. (Application 7550. Case 3299.)

Application granted. Order issued.

1016. Application of the Grand Valley Railway for authority to cross the tracks of the Toronto, Hamilton and Buffalo Railway near Brantford, Ontario. (Application 7551. Case 3294.)

Application granted. Order issued.

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1017. Application of the Grand Valley Railway for authority to cross the tracks of the Brantford and Hamilton Electric Railway in the city of Brantford, Ontario. (Application 7552. Case 3295.)

Application granted. Order issued.

1018. Application of the township of the Front of Escott for an order directing the Grand Trunk Railway to provide and construct immediately to the east of the present crossing a suitable overhead crossing, two and a half miles west of Mallerytown, Ontario. (Application 4452. Case 1118.)

Application dismissed with leave to applicant to revive same.

1019. Application of the Walkerton and Lucknow Railway Company, under section 237 of the Railway Act, for authority to carry its line of railway across College, Bruce, Countess, Garafraxa, Elgin, Kincardine and Rock streets in the town of Durham, Ontario. (Application 4558. Case 1230.)

NOTE.—In connection with the above application will be heard the application of the town of Durham for consideration of the protection to be afforded at the said crossings.

Order issued in terms of an agreement between the parties filed.

1020. Application of the Grand Trunk Railway Company, under section 29 of the Railway Act, for an order amending the order of the Board dated June 18, 1904, by directing the Peterborough Radial Railway to install and maintain derails on each side of the crossing of its railway of the tracks of the Grand Trunk Railway at (1) Charlotte street, (2) Water street, Peterborough, said derails to be placed 100 feet from the nearest Grand Trunk Railway track. (Application 650. Case 3464.)

Order issued, directing interlocker at Charlotte street. Application as to Water street stands.

1021. Application of the Grand Trunk Railway Company for authority to construct a branch line to the premises of Schultz Brothers, Brantford, Ontario. (Application 7738. Case 3479.)

Application granted. Order issued. Leave reserved to city of Brantford to renew application for planking between rails if so advised.

1022. Application of the Canadian Pacific Railway Company under section 178 of the Railway Act, for authority to take additional lands adjoining their railway in the township of Albion, county of Peel, being composed of the south half of the west half of lot 10, in the fifth concession of the township of Albion, county of Peel, Ontario. (Application 7654. Case 3342.)

Application granted. Order issued.

1023. Complaint of the town of Napanee *re* insufficient protection of highway crossing at Centre and Thomas streets by Grand Trunk Railway and Bay of Quinte Railway. (Application 3287.)

Complaint dismissed.

1024. Application of the Canadian Northern Quebec Railway for an order directing the Canadian Pacific Railway to stop its trains carrying passengers and mail at the crossing of the Canadian Northern Quebec Railway at St. Jerome at times convenient to afford reasonable opportunity for transfer of passengers and mail between said railways and to furnish reasonable facilities and accommodation for such purpose. (Application 7902. Case 3541.)

Order made directing Canadian Pacific Railway to stop its passenger trains at St. Jerome diamond. Applicant company to construct platform and supply proper conveniences for transfer of passengers.

1025. Application of the Canadian Pacific Railway Company for an order approving proposed changes and alterations in its railway from its station at Pembroke, Ontario, to a point about 3,200 feet west of said station. (Application 5051. Case 1670.)

In connection with the above application will be noted that the applicant company have obtained an order in council, dated May 6, 1908, approving of the plans

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of the trestle altered in accordance with the plans on file with the Board, and that these altered plans be now submitted to the Board for its approval.

Application granted. Order issued, in terms of consent agreed to by all parties.

1026. Application of the St. Paul Land and Hydraulic Company for an order varying and defining order of the Board dated October 4, 1906, upon the application of the Canadian Pacific Railway Company for a deviation of a portion of a branch line on the south side of the Lachine canal, Quebec. (Application 1088. Case 1537.)

Judgment of the Board vacating order of October 4, 1906. No order to issue for three months, during which time both companies are to consider their respective positions. Subsequently Canadian Pacific Railway made application for deviation, and Board, after hearing application, approved of deviation, subject to certain conditions agreed upon by counsel.

1027. Application of the Board of Trade of Portage la Prairie, Manitoba, under section 323 of the Railway Act, for an order disallowing the special freight tariffs of the Canadian Pacific Railway Company, Nos. W-1000, C.R.C., 644, and W-1006, C.R.C., 652, as being illegal; and

The complaint of the Winnipeg and other boards of trade, mercantile bodies, and shippers objecting to the new tariffs recently put into force by the Canadian Pacific Railway Company of western Canada in substitution for the 'traders tariffs,' so-called, previously in existence. (Application 5664.)

Application refused.

1029. Application of S. H. Jones, of Sabrevois, Quebec, for an order directing the Dominion Express Company and the American Express Company to provide an efficient service for the carriage of express traffic from Sabrevois, Quebec, on Monday morning as well as on other days of the week. (Application 6815.)

Application dismissed.

1029. Application of the Grand Trunk Railway for a decision on the question of interlocking plants and responsibility of the senior company for accidents arising out of the negligence of the men in charge. (Application 7815.)

Judgment appears in appendix.

1030. Application of the Grand Trunk Railway Company under section of the Railway Act, for an order permitting the applicant company's engines and trains to approach and pass without stopping over the drawbridge carrying its main line of railway between Hamilton and Niagara Falls, Ontario, across the old Welland canal at the west end of the applicant company's yard at Merritton, Ontario. (Application 7899. Case 3538.)

Application granted. Order issued. Grand Trunk Railway to keep the bridge key and to open bridge upon application.

1031. Application of the Canadian Pacific Railway Company, under section 176 of the Railway Act, for an order fixing the compensation to be paid by the Grand Trunk Railway for the use and enjoyment of the right of way and tracks of the Canadian Pacific Railway between Nipissing Junction and North Bay, Ontario, and the terminals, stations and station grounds of the Canadian Pacific Railway at North Bay, including service and accommodation provided, and at present and since July 2, 1907, used and enjoyed by the Grand Trunk Railway without compensation being paid therefor. (Application 7439. Case 3243.) (Argument heard at Ottawa, June 24, 1908.)

Application dismissed. Leave granted to appeal to Supreme Court.

1032. Application of the Mount McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Pacific Railway at Yonge street, Fort William, Ontario. (Application 5585. Case 2281.)

Application granted.—Order issued.

1033. Application of the Mount McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Cana-

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dian Pacific Railway at Mactavish street, Fort William, Ontario. (Application 5585. Case 2280.)

Stands adjourned at request of parties.

1035. Application of the Mount McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Northern Railway at Francis street, Fort William, Ontario. (Application 5585. Case 2276.)

Application granted. Order issued.

1035. Application of the Moun McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Northern Railway at Francis street, Fort William, Ontario. (Application 5585. Case 2277.)

Stands adjourned at request of parties.

1036. Application of the Mount McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Northern Railway at Yonge street, Fort William, Ontario. (Application 5585. Case 2279.)

NOTE.—The above applications are set down for the purpose of enabling the parties to give such additional evidence as they may desire.

Application granted. Order issued.

1037. Application of the Grand Trunk Pacific Railway Company, under sections 222 and 235 of the Railway Act, for an Order authorizing it to construct, maintain and operate a branch line or spur along Neebing avenue from Montreal street to Kaministiquia river, Fort William, Ontario. (Application 6822. Case 3106.)

Application refused.

1038. Application of the corporation of the city of Fort William, Ontario, under section 262 of the Railway Act, for an order directing the Canadian Northern Railway Company to abandon using its loop line along Arthur and Vickers streets, in the city of Fort William, and further directing the said railway company to operate all its trains on the original straight line right of way established by the Port Arthur Duluth and Western Railway Company. (Application 5549. Case 2193.)

Application stands sine die at request of counsel for the town.

1039. Application of the Grand Trunk Railway Company, under section 237 of the Railway Act, for leave to cross with its spur the spur track of the Canada Southern Railway in the Grand Trunk Railway Company's south yard at Fort Erie, Ontario. (Application 6833. Case 2913.)

Application granted. Order issued.

1040. Application of the Napierville Junction Railway, under section 237 of the Railway Act, for leave to connect its track with the track of the Grand Trunk Railway near Lacolle, Quebec. (Application 6952. Case 2989.)

Application granted. Order issued.

1041. Application of the Canadian Pacific Railway Company as lessee of the Georgian Bay and Seaboard Railway, under section 177 of the Railway Act, 1903, for an Order authorizing the company to construct, maintain and operate a crossing of the Grand Trunk Railway Company's spur to an ice house for the town of Orillia, on the shore of Lake Couchiching. (Application 3021.)

Struck off list. Not to be placed on again except on notice.

1042. Application of the municipal council of the township of Hagar, under section 237 of the Railway Act, for an Order directing the Canadian Pacific Railway to provide and construct a suitable public crossing between lots 12 and 13, concession 3, in the said township. (Application 5055. Case 1642.)

Application granted. Order to issue in terms of consent minutes filed.

1043. Application of the St. John Railway Company for authority to continue to operate their line across the tracks of the Canadian Pacific Railway in the parish

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of Lancaster, in the city and county of St. John, without installing any interlocking or other similar appliances for the space of twelve months from the date of application. (Application 2463.)

Order made amending Order of 14th June, 1906, and providing that municipality and St. John Railway pay applicant company $\frac{1}{2}$ each of cost of watchman, also that municipality and St. John pay applicant company $\frac{1}{2}$ wages of watchman from 1st July, 1906, to 18th January, 1909.

1044. Application of the Canadian Northern Ontario Railway, under section 159 of the Railway Act, for sanction and approval of the location of railway through townships of Westmeath, Pembroke and Stafford, county of Renfrew, mileage 73.5 to mileage 91.3 north from Ottawa. (Application 3561. Case 2579.)

Application granted. Order issued approving location as to the townships mentioned.

1045. Application of the Bell Telephone Company, under section 246 of the Railway Act, for leave to erect, place and maintain its wires across the tracks of the Schomberg and Aurora Railway Company, at public crossing, Main street, Schomberg, Ontario. (Application 7938. Case 3565.)

Application granted. Order issued.

1046. Application of the city of Ottawa, under sections 237, 238, 240 and 241 of the Railway Act, 1903, for an Order directing the Grand Trunk Railway to reconstruct the bridge by which the railway passes over Preston street, Ottawa, and to maintain the same in such manner as to afford safe and adequate facilities for all traffic passing under such structure. (Application 8120. Case 3690.)

Order made directing Grand Trunk Railway Company to build bridge, detail plans to be submitted by May 11, 1909. Bridge to be completed by October 10, 1909. Cost to be divided equally between applicant and railway company, but city's share not to exceed the sum of \$3,000.

1047. Application of the Père Marquette Railway Company, under subsection (x) of section 3 of the Lord's Day Act, 6 Edward VII., chapter 27, permitting the said company, its servants, workmen and agents to do on Sunday any work incidental to the operation of their international car ferry, the Canadian port of which is Port Stanley, in Lake Erie, and which work is incidental to the continuance to its destination of freight in transit or in cars forming part of a train in transit at the beginning of such Sunday, notwithstanding that the cars containing such freight and forming part of any train so in transit have to be separated from the train for the purpose of loading the same or unloading the same from such car ferries, and awaiting the return of the car ferry with the remainder of the said train, and may require to be switched, shunted or otherwise dealt with, to enable such train to proceed to its destination. (Application 7588. Case 3301.)

Order made granting application.

1048. Application of James Greer, of Toronto, Ontario, under section 355 of the Railway Act, 1903, for an Order directing the Bell Telephone Company to provide him with a telephone at his residence, 230 Bleecker street, at the telephone rate of \$30 per annum, instead of as a business telephone at \$50 per annum. (Application 7746.)

Application dismissed.

1049. Application of the Canadian Association of Amateur Oarsmen, under subsection 3 of section 321 of the Railway Act, for an Order directing the railway companies comprising the Canadian Freight Association, to give racing shells a rating under the Canadian classification No. 13, on the ground that the rates quoted by the railway companies for the transportation of racing shells are excessive, and in many instances prohibitive. (Application 7535.)

Stands *sine die*; to be brought up on notice.

1050. Complaint Canadian Cannery, Limited, respecting freight charges on a carload of canned vegetables from Trenton, Ontario, to Englehart, Ontario, on the

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Temiskaming and Northern Ontario Railway, via Central Ontario Railway to Central Ontario Junction, thence via Canadian Pacific Railway to North Bay. (Application 7922.)

Complaint dismissed.

1051. Complaint of H. S. Conn, merchant, Ottawa, Ontario, respecting intersection freight rates on hay from points on the Montreal and Ottawa section of the Canadian Pacific Railway. (Application 7019.)

Complaint withdrawn.

1052. Consideration and formulation of rules and regulations for the safe transportation of explosives and other dangerous articles. (Application 1717.)

Standing for judgment.

1053. Application of George Lawrence, M.P.P., on behalf of the residents of the vicinity of Killarney, Manitoba, for an Order requiring the Canadian Pacific Railway Company and the Canadian Northern Railway Company to provide a transfer track at Holmfield and Boissevain, Manitoba, for interchange of traffic. (Application 4929.)

Application granted. Order issued for transfer tracks to be constructed by company in three months. Half cost to be paid by Canadian Northern Railway upon completion.

1054. Application of the Canadian Pacific Railway, under section 222 of the Railway Act, for authority to construct, maintain and operate a branch line or spur in township 11, range 4, east of the 1st meridian, commencing from a point on centre line of the Molson cut-off of the said railway, distant about 165 feet easterly, measured along the said centre line from the southerly boundary of the southeast quarter of section 23, in the said township, thence in a northerly direction along the road allowance between sections 23 and 24 and 25 and 26, to and into the premises of the Bird's Hill Sand Company, situate on the southeast quarter of section 35 in the said township, a distance of about 15,200 feet. (Application 5680. Case 2308.)

Application granted. Order issued.

1055. Application of the Canadian Pacific Railway Company for authority to expropriate certain additional lands, belonging to Samuel Buchanan, adjoining the station for the purpose of making a Y in the town of Neepawa, Manitoba. (Application 8217. Case 3764.)

Application granted. Order issued.

1056. Application of the city of Winnipeg, Manitoba, for Order directing the Canadian Pacific Railway Company to provide and construct a suitable highway crossing over its line of railway between Talbot avenue and Carter avenue, or in the alternative to allow the city to construct such crossing, or for such Order as the Board may deem meet. (Application 8223. Case 3769.)

Application granted. Expense of grading, planking, &c., required at crossings to be borne by the city of Winnipeg.

1057. Application of the city of Winnipeg, Manitoba, under section 277 of the Railway Act, for an Order directing the Canadian Pacific Railway to provide and construct a suitable highway crossing, or in the alternative to allow the said city to construct such highway crossing over the spur track known as the Brown and Rutherford spur, where the extension of Sutherland avenue, in the city of Winnipeg, extending in right lines, intersects said spur under the right of way therefor. (Application 8224. Case 3770.)

Application granted. Order by consent for crossing at expense of applicants. City to maintain and protect, if necessary.

1058. Application of the Canadian Pacific Railway Company, under section 258 of the Railway Act, for approval of its proposed new station and re-arrangement of its yards at St. Boniface, in the province of Manitoba. (Application 5472. Case 2096.)

Application granted. Order issued approving plan as amended.

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1059. Complaint of the Winnipeg Jobbers' and Shippers' Association, respecting the form of siding agreement used for new sidings by the Canadian Pacific Railway Company. (Application 6770. Case 2877.)

Forms of agreement settled between the parties.

1060. Complaint of the rural municipality of Miniota that the Grand Trunk Pacific Railway Company is proposing to construct level crossings over certain highways in the said municipality of Miniota and application of the municipality for an order directing the railway company to cross the highways by means of overhead crossings. (Application 3680. Case 2883.)

Order made for overhead bridge at the crossing.

1061. Complaint of the municipality of Miniota respecting highway crossings of the Grand Trunk Pacific Railway Company north of the town of Arrow River.

1. Crossing at mileage 31·32 between ranges 25 and 26, W.P.M.

2. Crossing at mileage 31·52.

3. Crossing situated between sections 29 and 30, and 31 and 32, township 13, range 25, W.P.M.

(Application 2633.)

Order made providing for highway crossing to be protected by automatic bell at mileage 31·32. Crossing at mileage 31·52 to be done away with. Crossings between sections 29 and 30 and 31 and 32 granted; to be protected by automatic bell.

1062. Application of the Grand Trunk Pacific Railway Company, under section 237 of the Railway Act, for an Order granting to the company authority to lay its line of tracks across the line or tracks of the Winnipeg Electric Street Railway Company on Pembina highway, Winnipeg, Manitoba. (Application 6991. Case 3025.)

Application granted. Order issued.

1063. Application of the Grand Trunk Pacific Railway, under section 237 of the Railway Act, for an Order approving of its highway crossings from mile 124·00 to mile 141·39 in the province of Manitoba. (Application 6747. Case 2862.)

Application granted. Order issued; company undertaking to have all scrub removed so that clear view of track may be had.

1064. Application of F. F. Brock and R. Muttleberry, of Winnipeg, under the Railway Act, for an Order directing the Grand Trunk Pacific Railway Company to treat with them as owners of certain property in the city of Winnipeg, through which the railway of the Grand Trunk Pacific Railway Company is intended to pass, as to the purchase of the said property. (Application 3272. Case 3798.)

Order issued cancelling order approving location, in so far as it affects the applicants' lands.

1065. Application of Messrs. Short, Cross and Biggar, Edmonton, Alberta, under the Railway Act, for an order directing the Grand Trunk Pacific Railway Company to treat with Messrs. Graves and Ferris as owners of certain property, being on the northeast quarter of section 16-52-21, through which the railway of the Grand Trunk Pacific Railway Company is intended to pass, respecting the purchase of said property. (Application 5401. Case 3796.)

Order made that unless railway company proceed to arbitrate within thirty days from date of location of line, through lands of applicants disallowed, and order allowing location rescinded in part.

1066. Application of the John Arbuthnot Company, Limited, Winnipeg, Manitoba, under the Railway Act, for an Order directing the Grand Trunk Pacific Railway Company to treat with the applicants as owners of certain property in the city of Winnipeg, through which the railway of the Grand Trunk Pacific Railway Company is intended to pass as to the purchase of the said property. (Application 8271. Case 3797.)

Order made cancelling order approving location in so far as affects applicants' lands.

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1067. Complaint of the Northern Elevator Company of Winnipeg against the rates charged by the Canadian Pacific Railway for hauling feed cars from the Northern Elevator Company, Winnipeg, to the Canadian Pacific Railway team tracks. (Application 6806.)

Complaint dismissed.

1068. Application of the Western Live Stock Shippers' Association under sections 284 and 317 of the Railway Act, for an Order directing the Canadian Pacific Railway Company and the Canadian Northern Railway Company to furnish certain facilities for the receiving, unloading, accommodation and transportation of livestock traffic. (Application 8234. Case 3774.)

Referred to operating assistant to traffic officers to inspect live stock shipping facilities in western provinces and report to the Board. In meantime matter stands.

1069. Complaint of the Independent Coal Company of Regina, Saskatchewan, *re* excessive demurrage charges by the Canadian Pacific Railway on shipments to the complainants at various points. (Application 5903.)

Order made directing refund to be made by Canadian Pacific Railway of demurrage charged to complainant company.

1070. Complaint of Stockton and Mallinson, Limited, of Regina, Saskatchewan, respecting freight on oranges from California points to Regina. (Application 6622.)

Complaint dismissed.

1071. Application of the Board of Trade of Portage la Prairie, Manitoba, under section 323 of the Railway Act, for an Order disallowing the special freight tariffs of the Canadian Pacific Railway, Nos. W-1000, C.R.C. 644, and W-1006, C.R.C. 652, as being illegal; and

The complaint of the Winnipeg and other boards of trade, mercantile bodies and shippers objecting to the new tariffs recently put in force by the Canadian Pacific Railway in western Canada in substitution for the 'traders' tariffs,' so-called, previously in existence. (Application 6664.)

Application *re* Kootenay rates dismissed. Application *re* Manitoba rates dismissed, but reserved as to application of Ontario town tariffs to western provinces, and as to power of Board to order commodity rates.

1072. Application of the Canadian Northern Railway Company, under section 159 of the Railway Act, for an Order sanctioning and approving of location of its 'Goose lake branch through the town of Saskatoon, Saskatchewan, and through townships 36, 31, range 5-12, west of the 3rd meridian, mile 0 to 57.96, Saskatchewan. (Application 5891. Case 2469.)

Application granted.—Order issued.

1073. Application of the Canadian Northern Railway Company for an Order under section 237 of the Railway Act, authorizing the company to construct its line of railway across avenues A to P in Spadina Crescent, in the city of Saskatoon, Saskatchewan. (Application 6256. Case 2650.)

Application granted. Order issued.

1074. Application of the Brantford and Hamilton Electric Railway Company, under section 235 of the Railway Act, for authority to carry its railway across Alfred and Murray streets, Brantford, Ontario. (Application 8298. Case 3810.)

Application granted. Order issued.

1075. Application of the township of Cornwall to review, vary or rescind the order of the Board dated the 28th of July, 1908, directing the Grand Trunk Railway Company to install an electric bell at the crossing where the company's railway intersects the public highway in the township of Cornwall. (Application 7285. Case 3152.)

Order made rescinding order No. 5107.

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1076. Petition of the residents of Barrington, province of Quebec, on the line of the Grand Trunk Railway Company, county of Huntingdon, regarding proposed change of location of the railway station at that point. (Application 7901.)

Petition dismissed.

1077. Application of the Canadian Pacific Railway Company, under section 178 of the Railway Act, for authority to take additional lands adjoining its railway in the town of St. Paul, province of Quebec. (Application 8388. Case 3875.)

Application granted. Order issued.

1078. Application of the Grand Trunk Railway Company, under sections 222, 235 and 237 of the Railway Act, for leave to construct, maintain and operate a branch line or siding and spurs therefrom, extending from a point in the applicant's railway east of St. Elizabeth avenue, in St. Henri ward, Montreal, thence westerly across St. Elizabeth avenue and upon and along and across Acorn street to the premises of the Simonds Canada Saw Company, Jenkins Brothers, Lang Manufacturing Company and other industries. (Application 3048. Case 3552.)

Application granted. Order issued. Adjacent landowners to be compensated for lands injuriously affected by spur crossing St. Elizabeth avenue, if there be any injury.

1079. Application of the Canadian Northern Ontario Railway Company, under sections 158 and 237 of the Railway Act, for approval of the location of its Udney-Orillia branch line from mileage 0.0 in the township of Mara, in the county of Ontario, to mileage 5.25 in the same township, and for authority to cross the several existing highways. (Application 8437. Case 3913.)

Application withdrawn.

1080. Application of the Brantford and Hamilton Electric Railway Company for an order granting leave to the applicant to operate its cars over the crossing of the tracks of the Tilsonburg branch of the Grand Trunk Railway, Brantford, Ontario, under order of the Board dated March 12, 1908, pending the installation of the interlocking and derailling plant directed to be installed at said crossing. (Application 5847. Case 2443.)

Application granted. Order issued in terms of consent filed by parties.

1081. Complaint of Olive Pringle, barrister, Ottawa, and others, of failure on the part of the Canadian Pacific Railway and Grand Trunk Railway to make connections at Brockville, Ontario, as required by order of the Board dated January 30, 1908. (Application 5320. Case 2863.)

Stands for settlement of terms of Order submitted by Board.

1082. Discussion of regulations proposed by the Board and forwarded to all railway companies subject to the jurisdiction of the Board, under cover of circular No. 23, dated September 16, 1908, relative to equipment and loading of cars, operation of trains, requirements as to train employees and telegraph operators, covering of open drains and handling of crippled cars. (Application 4135 and 1750.)

Dealt with under order No. 5888.

1083. Complaints of H. S. Conn, merchant, Ottawa, *re* rates on hay from West Moncton, Ontario, on the line of the Canadian Pacific Railway Company, from Mitchell and Harley, Ontario, on the line of the Grand Trunk Railway Company to Temagami, Ontario, on the line of the Temiskaming and Northern Ontario Railway, via North Bay, Ontario. (Applications 7920 and 7932.)

Complaints dismissed.

1084. Application of the Toronto, Hamilton and Buffalo Railway, under sections 237, 238, 256 and 257 of the Railway Act, for an Order authorizing the company to renew, reconstruct or alter the highway bridge under which its railway crosses the public highway in the township of Brantford, in the county of Brant, at a point about three miles east of the city of Brantford, and to divert the said highway and

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bridge, and authorizing the acquiring of additional land for the company for such purpose. (Application 8017. Case 3626.)

Application refused.

1085. Application of Henry New, Hamilton, Ontario, for an Order, under sections 252 and 253 of the Railway Act, directing the Toronto, Hamilton and Buffalo Railway to provide and construct a suitable crossing where its railway abuts the lands of the applicant, being parts of lots 5 and 6, in the 3rd concession, township of Barton, county of Wentworth, Ontario. (Application 7811. Case 3493.)

Order made directing Toronto, Hamilton and Buffalo Railway to provide crossing at expense of applicant. Crossing to be constructed at once.

1086. Complaint of the town of Welland, Ontario, in regard to dangerous condition of crossing of Grand Trunk Railway and Michigan Central Railroad tracks at Main street, Welland, and applies for protection of said crossing. (Application 8154.)

Order made directing Grand Trunk Railway Company to protect Main street crossing by gates and watchmen. Michigan Central Railroad crossing on South Main street to be protected by flagmen.

1087. Application of the Simpson Brick Company, under the Railway Act, for an order directing the Toronto, Hamilton and Buffalo Railway to supply adequate and suitable accommodation for the receiving and loading of brick and other material on the premises of the Simpson Brick Company, Hamilton, Ontario. (Application 7655. Case 3343.)

Application granted. Order issued.

1088. Application of the Grand Trunk Railway Company, under sections 222 and 237 of the Railway Act, for authority to construct, maintain and operate certain branch lines of railway or sidings in the city of Hamilton, Ontario, and crossing certain roadways to the premises of the Hamilton and Toronto Sewer Pipe Company and the Fowlers Canadian Company. (Application 7035. Case 3051.)

Application granted. Order issued.

1089. Complaint of the citizens of Fort Erie, Ontario, that the freight rates of the Michigan Central Railroad Company from Black Rock, New York, to Fort Erie, Ontario, are discriminatory with respect to the company's rates to Bridgeburg, Ontario, the latter place having been given a preference. (Application 7009.)

Application dismissed.

1090. Application of Charles Slade, under the Railway Act, for an Order directing the Michigan Central Railroad to provide a farm crossing where the tracks of the railway affect his property at lot 12, concession 8, township of Raleigh, Ontario. (Application 914. Case 3238.)

Application granted. Order issued directing crossing to be on the lot line.

1091. Application of Robert MacVicar, of the township of Brooke, county of Lambton, Ontario, for Order, under the Railway Act, directing the Michigan Central Railroad Company to provide and construct two suitable farm crossings where the company's railway intersects his farm on the east half of lot No. 13, and in the west half of lot No. 14, each containing 100 acres, and both in the 5th concession of the township of Brooke, County of Lambton, Ontario. (Application 5023. Case 1641.)

Order for one crossing on the dividing line between the two lots, the railway company to furnish the material, the applicant to do the grading.

1092. Application of the Bell Telephone Company, under the Railway Act, for an order directing the Windsor, Essex and Lake Shore Rapid Railway Company to bear the cost of certain changes in construction of the lines of the applicant, and of certain protection devices rendered necessary by reason of the construction and operation of the railway. (Application 8248. Case 3784.)

Application dismissed without costs.

1093. Application of the corporation of the city of Chatham, under the Railway Act, for an Order directing the Canadian Pacific Railway to provide, construct and

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maintain suitable gate or gates at the crossings of the said railway on Wellington and Centre streets, in the said city of Chatham, and electric bells or other automatic system of warning at the crossings of the said railway on Princess, Colborne, Jeffrey, Raleigh, West and Lacroix streets, and further directing that a watchman be kept at each street crossing of the said railway where gates are now provided and maintained, namely, the crossings of King, Adelaide, William and Queen streets, and also at the crossings on Wellington and Centre streets. (Application 3799. Case 2398.)

Order made dismissing the application.

1094. Application of the Windsor, Essex and Lake Shore Railway Company, under the Railway Act, for leave to carry its railway across the highways in the township of Gosfield south and the township of Mersea, and the town of Leamington, county of Essex, Ontario. (Application 6692. Case 2831.)

Application granted. Order issued. Notice of motion to be amended by adding the words 'along and across the highways in' after the word 'and' in the 6th line of the application.

1095. Application of Père Marquette Railway Company, under the Railway Act, for approval of the character of the work in construction of a bridge fifty-two feet in length over the drain known as the Whitebread Tap Drain, where the said drain crosses the lands of the Père Marquette Railway, such drainage work being constructed under and pursuant to the report of F. W. Flater, C.E., under by-laws of the municipal council of the township of Sombra, in the county of Lambton, Ontario, and of the township of Chatham, county Kent, Ontario. (Application 6920. Case 3930.)

Application refused.

1096. Application of the Chatham, Wallaceburg and Lake Erie Railway Company, under the Railway Act, for an order providing for the interchange of freight traffic between Chatham, Wallaceburg and Lake Erie Railway Company, county Kent, Ontario, and at the town of Wallaceburg, county Kent, Ontario, and regulating the rates to be charged therefor by the respective roads interested. (Application 1821. Case 1665.)

Application withdrawn.

1097. Application of the Windsor, Essex and Lake Shore Rapid Railway Company, under the Railway Act, for an order directing the Père Marquette Railway Company to interchange traffic with the Windsor, Essex and Lake Shore Rapid Railway Company at Kingsville, Ontario. (Application 6817.)

Application granted. Order issued in terms of letter dated October 17, 1908, from A. Patriarche to F. E. Low.

1098. Application of the Canadian Pacific Railway for Order, under the Railway Act, directing the Père Marquette Railway Company to afford suitable and sufficient accommodation for the proper interchange and interswitching of traffic between the railway of the Père Marquette Railroad Company and the railway of the applicant in the city of Chatham, Ontario. (Application 7990. Case 3598.)

Stands pending settlement of formal Order by railway companies interested.

1099. Complaint of Wellington Wigle, under the Railway Act, of refusal on the part of the Père Marquette Railway Company to carry passengers on its local freight trains. (Application 8348. Case .)

Application dismissed. If applicant desires to continue application he will only be allowed to do so upon payment of costs.

1100. Complaint of Wellington Wigle, of Kingsville, Ontario, alleging excessive passenger rates charged by the Windsor, Essex and Lake Shore Rapid Railway Company on passenger traffic. (Application 8347. Case .)

Application dismissed. If applicant desires to continue application he will only be allowed to do so upon payment of costs.

1101. Application of the Montreal and Southern Counties Railway Company, under section 157 of the Railway Act, for approval and sanction of its line of railway

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between Montreal and St. Lambert, province of Quebec. (Application 6731. Case 2692.)

Application granted. Order issued.

1102. Application of the Canadian Pacific Railway, under the Railway Act, for an order to compel the People's Telephone Company, of Sherbrooke, province of Quebec, and E. P. Smith, of Johnville, province of Quebec, to remove their telephone wires where they cross the tracks of the applicant company, near Johnville station, province of Quebec. (Application 6827. Case 3574.)

Order issued authorizing crossing, subject to usual conditions.

1103. Application of Calixte Franche, of Wendover, Ontario, under sections 252 and 253 of the Railway Act, for an Order directing the Canadian Northern Railway to provide a suitable farm crossing where his property is affected by the railway. (Application 7858. Case 3512.)

Application dismissed.

1104. Complaint of the municipal council of the township of Somerville of failure on the part of the Grand Trunk Railway to provide and maintain a proper station at the centre line in the township of Somerville, for the loading and unloading of traffic. (Application 7991).

Complaint withdrawn pending negotiations for a settlement. Leave to reinstate on ten days notice without application.

1105. Petition of the residents of Fern Glen or Wells Crossing (a flag station on the Canada Atlantic division of the Grand Trunk Railway) that the Grand Trunk Railway Company be required to stop its passenger trains, so as to afford accommodation to the travelling public at that point. (Application 7249.)

Order made to stop mixed trains on flag. Railway company may at any time move to rescind Order.

1106. Application of the Canadian Northern Ontario Railway, under Section 227 of the Railway Act, for leave to operate its trains under the tracks of the Canadian Pacific Railway where it crosses under same at Little Key river, township of Mowat, District of Parry Sound, Ontario. (Application 1863. Case 3588.)

Application granted. Slow Order removed upon Canadian Pacific Railway submitting plans providing for 16 foot clearance and remodelling to provide for same. Applicant company to pay half the cost. Work to be done in fifty days.

1107. Application of the Canadian Northern Ontario Railway, under section 177, for approval of the location of interlocking plant and equipment at the Canadian Northern Ontario Railway crossing of the Grand Trunk Railway at Hawkesbury, Ontario, (Crossing Order No. 2030, dated November 12, 1906.) Application 2527. Case 2123.)

Order made directing telephone connection to be installed by Canadian Northern Ontario Railway within ten days.

1108. Application of the Canadian Northern Quebec Railway to take part of lot 8, parish of Longue Pointe, belonging to Montreal Protestant House of Refuge and Industry, county of Hochelaga, said land being necessary for the construction of a 'Y.' (Application 8651. Case 4051.)

Application granted. Order for expropriation of the triangle marked 4 on plan and for 50 feet on south side of track running through the lands in question.

1109. Complaint of Hon. Senator Tessier, of refusal by the Ottawa Electric Railway Company, to furnish free transportation to him as a member of the Senate of Canada over its lines of railway. (Application 8049.)

Complaint withdrawn.

1110. Application of the St. Maurice and Champlain Telephone Company, under section 245 of the Railway Act, for an Order directing the Canadian Pacific Railway to permit the applicants to make telephonic connection and communication with the ticket office and freight office of the company at Louiseville, Maskinonge county,

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Yamachichi, St. Maurice county; Batiscan, Ste. Anne de la Perade and Lac a la Tortue, Champlain county. (Application 8581. Case 4021.)

Application granted. Order issued in usual terms.

1111. Application of the Canadian Pacific Railway under section 176 of the Railway Act, for authority to take possession of parts of the south halves of lots 34 and 35, 3rd concession, township of Humphrey, district of Parry Sound, Ontario, belonging to the Canadian Northern Ontario Railway. (Application 7522. Case 3271.)

Order granted for taking of lands as shown on plan and in the application.

1112. Application of the Grand Trunk Railway, under sections 222 and 237 of the Railway Act, for authority to construct, maintain and operate certain branch lines of railway, on lot No. 5 in the 12th concession of the township of Tay, county of Simcoe, Ontario, thence northerly crossing part of said lot 5, the side road between lots 5 and 6 in said concession, part of lot 6 in said concession, the concession road between the 11th and 12th concessions of said township, part of lot No. 7 in said 11th concession to a point on the Grand Trunk Railway on said lot No. 7. (Application 7924. Case 3554.)

Application granted. Order issued.

1113. Application of H. Bingham and Joseph Quenneville, of the unincorporated village of Crysler, in the township of Finch, in the county of Stormont, Robert Stevens and Thomas Fleming, of the said township of Finch, and Louis A. Landry, of the township of Cambridge, in the county of Russell, for an Order directing the Ottawa and New York Railway Company to rebuild their railway station at the said unincorporated village of Crysler at a point on the northeast side of their railway line about 1,657 feet in a northeasterly direction from the site of their previous station. (Application 8699. Case 4077.)

Application withdrawn.

1114. Application of A. A. McFall, Bolton, Ontario, *re* proposed removal by the Canadian Pacific Railway of old main line and switches leading past his elevators near the old station at Bolton. (Application 2023.)

Settled. See order made in application 2023 *re* Bolton station.

1115. Application of St. Paul Land and Hydraulic Company, under the Railway Act, for an Order varying and defining Order of the Board dated October 4, 1906, upon the application of the Canadian Pacific Railway for a deviation of a portion of a branch line on the south side of the Lachine canal, province of Quebec. This application is set down to speak to the terms of the Order. (Application 1088. Case 1537.)

Application refused.

1116. Application of the Superior Copper Company, Limited, district of Algoma, Ontario, for an Order under section 227 of the Railway Act, granting leave to the applicants to join its railway line or track with those of the Algoma Central and Hudson Bay Railway Company. (Application 7904. Case 3623.)

Application struck off the list.

New application to be made.

1117. Application of the city of Ottawa, under section 250, for an Order permitting the applicant to permanently construct, maintain and operate an aqueduct for water works purposes through, along, upon and across the lands and under the railway of the Canadian Pacific Railway along a course composed of a part of lot 39, concession A, Ottawa front of the township of Nepean (now within the limits of the city of Ottawa.) (Application 8450. Case 3922.)

Application granted. Order issued. Reinforcing of the concrete to be acceptable to experts of railway company.

1118. Application of the Canadian Northern Ontario Railway under section 222 of the Railway Act, for authority to construct a branch line partly within the town of Hawkesbury and partly within the town of West Hawkesbury from its main line;

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also under section 237 to make a junction of such branch line with the tracks of the Grand Trunk Railway at Riordan's mills, Hawkesbury. (Application 5570. Case 2219.)

The question to be considered is the switching rate to be charged on traffic transferred in connection with this junction and spur.

Order issued providing for interswitching rate.

1119. Application of the Grand Trunk Railway for an Order that as and from the 12th December, 1905, day and night watchmen be placed at the crossing of the Grand Trunk Railway by the Berlin and Waterloo Street Railway at King street, Berlin, Ontario, authorized by Order of the Railway Committee of the Privy Council, 1895, and that the Berlin and Waterloo Street Railway Company bear any increased cost of operating the protective appliances at the said crossing entailed by the carrying out of this Order beyond the cost of protection at the said crossing prior to the use of the crossing by the electric cars of the said Berlin and Waterloo Street Railway Company. (Application 113. Case 1252.)

Order 5661 rescinded. Berlin and Waterloo Railway to pay the Grand Trunk Railway 85 cents per day from November, 1905, to the 1st May, 1907, and the light commissioners of Berlin to pay the Grand Trunk Railway Company 90 cents per day from the 1st May, 1907.

1120. Application of the Canadian Pacific Railway, under section 178, for authority to take additional lands adjoining its railway in the township of Vaughan, county of York, Ont., the property of Mrs. Marion Long, for the convenient accommodation of the public and of the traffic of its railway, and to secure the efficient construction, maintenance and operation of the railway. (Application 8466. Case 3937).

Matter arranged by agreement between parties.

1121. Complaint of the town of Walkerton, Ontario, respecting alleged dangerous condition of the Walkerton and Lucknow Railway Company bridge over the Saugeen river about lot 71, north of Wellington street. (Application 6813.)

Order made subject to terms of an agreement between the railway company and the town till construction and maintenance of bridge be approved.

1122. Application of the Guelph and Goderich Railway Company, under section 237 of the Railway Act, for authority to lay its tracks across the road allowances on its Listowel branch through the townships of Wellesley, county of Waterloo, and the townships of Mornington and Elma, in the county of Perth, Ontario. (Application 7742. Case 3480.)

Application granted. Order issued, subject to various conditions set forth in the Order. Question of further protection reserved for further consideration of Board.

1123. Complaint of H. J. Gibney, J. J. Cain, and other residents of Alliston, Ontario, against the closing of Nelson, Wellington and Queen streets, in the said town, where such streets are intersected by the Canadian Pacific Railway. (Application 8181.)

Complaint dismissed.

1124. Application of George Elliott of Woodbridge, Ontario, under the Railway Act, for an order directing the Canadian Pacific Railway to protect his property from floodings, which is alleged to result from the construction of the Canadian Pacific Railway Bolton grade revision across the east half of lot 11, concession 8, township of Vaughan, Ontario. (Application 5760.)

Order issued in terms of consent minutes filed.

1125. Application of the Grand Trunk Railway under sections 222 and 237 of the Railway Act, for authority to construct, maintain, and operate certain branch lines of railway or sidings in the city of Hamilton, Ontario, and crossing certain roadways to the premises of the Hamilton and Toronto Sewer Pipe Company and the Fowlers Canadian Company. (Adjourned hearing.) (Application 7035. Case 3051.)

Application granted. Order issued.

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1126. Complaint of the township of Foley of the alleged dangerous condition of the public road railway crossings of the Canadian Pacific Railway, Canadian Northern Ontario Railway, and Grand Trunk Railway Companies, in the township of Foley. (Application 8435.)

Order made for overhead bridge at Halplead Road, that approaches to Parry Sound Road Church Hill crossing Badgers crossing. Oastlers crossing comply with section 242 Railway Act; also approaches to Moore Road, Gaughs Road and Rat Portage Bay Road. Canadian Pacific Railway to complete work by June 1, 1909.

1127. Application of Andrew Oastler of James Bay Junction, Ontario, under sections 252-253 of the Railway Act, for an Order directing the Canadian Northern Ontario Railway to provide and construct four suitable culverts where the company's railway intersects his farm on lots 135 and 136 in the township of Foley, district of Parry Sound, Ontario. (Application 8422. Case 3993.)

Order issued on consent providing for two culverts to be built by railway company at its own expense by June 17, 1909.

1128. Application of Andrew Oastler, of James Bay Junction, Ontario, under sections 252 and 253 of the Railway Act, for an Order directing the Canadian Northern Ontario Railway to provide suitable farm undercrossing where the company's railway intersects his farm lot 135, concession 3, township of Foley, district of Parry Sound, Ontario. (Application 8529. Case 3984.)

Order made directing railway company to build a cattle pass at its own expense. Work to be done by June 17, 1909.

1129. Application of Andrew Oastler, of James Bay Junction, Ontario, under section 154 of the Railway Act, for an Order instructing the Canadian Northern Ontario Railway to provide and construct a suitable watering place where the company's railway intersects his farm in lot 134, concession 3, of the township of Foley, district of Parry Sound, Ontario. (Application 8552. Case 3994.)

Order made directing railway company to maintain fence so as to enable applicant's cattle to get to water. Work to be done by June 1, 1909.

1130. Complaint of the residents of the township of Sydenham and the town of Owen Sound, Ontario, respecting dangerous condition of highway crossing over the Canadian Pacific Railway near what is known as Murray's Cut. (Application 7449.)

Application dismissed with leave to applicant's to apply for installation of electric bell at said crossing.

1131. Application of the Canadian Pacific Railway, under section 229 of the Railway Act, for an Order amending Order dated July 29, 1908, authorizing the Grand Trunk Railway to cross the tracks of the Owen Sound section of the applicant company's railway, and the tracks of the Ontario and Quebec Railway Company at a point east of Weston road, in the town of Toronto Junction, Ontario. (Application 4564. Case 4002.)

1132. Application of the Grand Trunk Railway, under section 229 of the Railway Act, for an order directing the installation and maintenance at the expense of the Canadian Pacific Railway of a complete interlocking plant, with derails on the lines of both railway companies, the said derails to be interlocked with home and distant signals, at the point where the applicant company's railway is crossed on the level at Brampton, Ontario, by the Canadian Pacific Railway (formerly the Credit Valley Railway) in accordance with detail plans thereof to be submitted and approved by the engineer of the Board. (Application 8462. Case 3934.)

Application granted. Order issued placing cost on the junior road.

1133. Application of the Grand Trunk Railway, under section 229 of the Railway Act, for an Order directing the installation and maintenance at the expense of the Canadian Pacific Railway of a complete interlocking plant, with derails on the lines of both railway companies, the said derails to be interlocked with home and distant signals, at the point where the applicant's railway is crossed on the level

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at Drumbo by the Canadian Pacific Railway (formerly the Credit Valley Railway) in accordance with detail plans thereof to be submitted and approved by the engineer of the Board. (Application 8461. Case 3933.)

Application granted. Order made placing the cost on junior road.

1134. Application of Mrs. H. A. McLeod, of Staney Brae, Ontario, under the Railway Act, for an Order directing the Canadian Northern Ontario Railway to provide a suitable farm crossing opposite her property. (Application 6708.)

Application granted. Order issued in terms agreed upon.

1135. Complaint of the council of the township of Somerville of failure on the part of the Grand Trunk Railway to provide and maintain a proper station at the centre line in the township of Somerville for the loading and unloading of traffic. (Application 7991.)

Stands—upon application by the township to be brought on upon 10 days' notice.

1136. Complaint of the Canadian Pacific Railway of failure of the Toronto Suburban Railway to instal a diamond at the crossing on St. Clair avenue, between Keele street and Western road, in the town of Toronto Junction, in accordance with requirements of Order of the Board No. 3130, dated May 3, 1907. (Application 2560. Case 252.)

Order made directing diamond to be installed immediately. Cost of installation to be borne by junior road.

1137. Complaint of the Grand Trunk Railway respecting position of certain poles, the property of the Toronto Electric Light Company, near the tracks of the railway company east of Scott street, in the city of Toronto, Ontario, being poles marked 'A,' 'B,' 'C' and 'D' on Grand Trunk Railway plan No. 9052, Toronto middle division. (Application 7809.)

Order made directing Toronto Electric Light Company to remove the poles within four months. Electric Light Company granted leave to apply to vary Order if within that time construction of viaduct is gone on with.

1138. Application of the Canadian Pacific Railway, under section 175 of the Railway Act, for leave to construct branch lines in the town of Parry Sound, as shown on plan filed with the Board. (Application 3098.)

Order issued in application No. 3939, Case 625, covers this also.

1139. *Re* speed of trains of the Grand Trunk Railway, Canadian Pacific Railway and the Canadian Northern Railway Companies crossing Bay and Yonge streets, in the city of Toronto, Ontario. (Application 4177. Case 844.)

Order made limiting speed of all trains on all railway crossings between Yonge and Bay streets to not more than 4 miles per hour between 7 a.m. and 12 p.m. from May 1 to October 15 in the terms of the statute requiring such limitations.

1140. Application of the city of Toronto, under sections 237 and 238 of the Railway Act, for an Order directing the Grand Trunk Railway to provide gates and watchmen at the crossing of Jameson avenue, in the said city, by the tracks of the railway. (Application 7442. Case 3247.)

Application granted. Order made for erection of gates and watchmen being placed. Cost to be divided equally between city and railway company.

1141. Application of the township of Wellesley, for an Order under sections 257 and 258 of the Railway Act, authorizing the Guelph and Goderich Railway Company to remove its water tank in connection with its station premises at Linwood to some point further away from the main line leading to Linwood, or that in the alternative an Order be made directing the Guelph and Goderich Railway to break cars so as to leave the said main road open when any train from the west is taking water from said tank. (Application 8438. Case 3914.)

Order made as in application No. 7742. Case 3480. If conditions not lived up to by railway company upon proof of breach by affidavit, Order will go for removal of tank.

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1142. Application of J. S. Dignam of Toronto, under the Railway Act, for an Order directing the Bell Telephone Company to furnish him with a copy of their latest Official Telephone Directory for Western Canada and the United States. (Application 7539. Case 3285.)

Application dismissed.

1143. Application of F. W. Wegenast, Brampton, Ontario, under section 315, of the Railway Act, for an Order directing the Grand Trunk Railway to issue to him a 55 trip ticket for use between Brampton and Toronto, similar to those in use between Oakville and Toronto, at the same rate as those between Oakville and Toronto are sold, that is, \$7.15. (Application 7287. Case 3378.)

Application dismissed.

1144. Application of the R. Laidlaw Lumber Company, Limited, Toronto, for an Order directing the Grand Trunk Railway to refund to the applicants certain switching charges collected by the company prior to September 1, 1908, the date on which the company's interswitching tariff No. C.R.C. 1380 became effective. (Application 4459. Case 1356.)

Application dismissed.

1145. Application of the Algoma Central and Hudson Bay Railway Company, for an Order under section 7, 317, 333, 334 and 338, for joint tariff with the Grand Trunk Railway. (Application 2232.)

Application dismissed.

1146. Application of the Boards of Trade of Galt, Preston, Hespeler, Waterloo and Berlin, under section 222 of the Railway Act, for an order directing the Grand Trunk Railway, the Canadian Pacific Railway, the Berlin, Waterloo, Wellesley and Lake Huron Railway Company and the Preston and Berlin Street Railway Company, to connect their lines of tracks in the towns of Galt, Treston, Hespeler, Waterloo and Berlin so as to admit of the safe and convenient transfer or passing of engines, cars or trains from the tracks or lines of one of the above railways to those of the other, and that such connections shall be maintained and used by the said Canadian Pacific Railway, Grand Trunk Railway, Berlin, Waterloo, Wellesley and Lake Huron Railway Company, and the Preston and Berlin Street Railway Company, respectively.

Also to determine by what company or companies, or other corporations or persons, and in what proportions the cost of making and maintaining any such traffic shall be thereby transferred from the line of one railway to those of another, or any other railway or railways that might hereafter enter the said towns of Galt, Preston, Hespeler, Berlin and Waterloo. (Adjourned hearing.) (Applications 1761, case 2391; 1758, 2392; 1763, 2393; 1762, 2394.)

Application dismissed so far as connection with electric roads is asked, upon want of jurisdiction. Cost of connection between Grand Trunk Railway and Canadian Pacific Railway to be paid by Canadian Pacific Railway.

1147. Application of the Commercial Acetylene Company and the Canadian Northern Railway Company) for an Order approving of the lighting of cars of the railway company with commercial acetylene gas. (Application 4739. Case 2395.)

Order made permitting the use of acetylene gas under what is known as the Absorbent or Commercial Acetylene System.

1148. Application of the Crow's Nest Pass Coal Company, Limited, for an Order requiring the Canadian Pacific Railway Company to provide a special tariff of tolls to be charged by the railway company to the Coal Company under the provisions of the agreement between the British Columbia Southern Railway Company, the Canadian Pacific Railway Company, and the Kootenay Coal Company (now the Crow's Nest Pass Coal Company) bearing date July 30, 1907. (Application 8398. Case 3880.)

Application refused.

1149. Application of the Grand Trunk Railway under section 176, for an Order to fix the compensation to be paid to the Grand Trunk Railway Company by the Guelph and Goderich Railway Company, for the use made of the lands and property

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of the Grand Trunk Railway at the town of Goderich, as provided in Order No. 4002, dated October 30, 1907, and which said Order authorized the Guelph and Goderich Railway Company to use and occupy the lands and premises of the Grand Trunk Railway for the construction of a bridge or grain carrier over the tracks of the Grand Trunk Railway in the said town of Goderich, Ontario. (Application 4733. Case 4067.)

1150. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 246 of the Railway Act, for authority to cross with its tracks and wires the wires of the Hamilton Cataract Power, Light and Transmission Company, at station 247, -01 and station 282-94, main line and station 280 T. H. & B. connection, lot 27, concession 5 and 6, township of Crowland, county of Welland, Ontario. (Application 8777. Case 4126.)

Application granted. Order issued.

1151. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 227, for authority to connect its tracks with the tracks of the Toronto, Hamilton and Buffalo Railway Company, in lot 27, concession 6, township of Crowland, county of Welland, Ontario. (Application 8838. Case 4176.)

Application granted. Order issued.

1152. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 178, for authority to take part of lot 27, concession 6, township of Crowland, county of Welland, Ontario, the property of W. H. Singer, for the purpose of securing the efficient operation of its railway. (Application 8837. Case 4175.)

Application withdrawn.

1153. Application of Cameron & Company, of Ottawa, Ontario, under sections 226 and 234 of the Railway Act, for an Order directing the Grand Trunk Railway to provide and construct a line of railway making connection between the private siding or branch line of the applicants with the main line of the Grand Trunk Railway, Atlantic Division, at or near Aylen Lake station, Ontario. (Application 8768. Case 4121.)

Stands adjourned, parties to settle. Settlement subsequently made.

1154. Complaint of Henri Frenette, of Portneuf, P. Q., of failure of the C.P.R. and the National Transcontinental Railway to provide proper drainage on right of way through his farm in the village of Portneuf, province of Quebec. (Application 8613.)

Stands. Referred to Board's engineer to report.

1155. Application of the Grand Trunk Railway, under sections 222 and 237, for leave to construct, maintain, and operate two branch lines of railway or spurs, from a point on the applicant company's railway on Bethune street in the city of Peterborough.

One crossing Bethune street to lot No. 9, north of Dalhousie street, and No. 2 crossing Bethune street to lot No. 9, north of Wolfe street, in the said city of Peterborough, Ontario. (Application 6492. Case 2737.)

Revision of order No. 5132. Order No. 5132 stands and application city of Peterborough to revise same dismissed.

1156. Application of the Grand Trunk Railway, under section 50, for an Order extending the time for the construction of the branch line and station authorized to be constructed between the Grand Trunk Railway's main line, east of the Port Hope viaduct, and a point on the Northern Division, north of Ontario street, Port Hope, Ontario, by Order of the Board, No. 2333, dated 16th December, 1906, for a period of two years from the 18th day of December, 1908. (Application 3675. Case 411.)

Application dismissed.

1157. Complaint of Amos Morgan, Crookston, Ontario, that in the construction of the Havelock section of the Canadian Pacific Railway at mileage 89.9, the railway company damaged his property situate on lot 1, concession 9, on the town line between

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Rawdon and Huntingdon, near Crookston, Ontario, by diverting the watercourse as it then existed along the right of way at or near station 31-48. (Application 7634.)

Order made directing railway company to clean ditches and deepen off-take ditch through complainant's land, work to be completed by 1st May, 1909.

1158. Complaint of the Honourable Senator Tessier of refusal by the Ottawa Electric Railway Company to furnish free transportation to him as a member of the Senate of Canada over its lines of railway. (Adjourned hearing.)

Complaint withdrawn.

1159. Complaints of residents of the township of Montcalm, province of Quebec, against the train service and condition of the Montford Branch of the Canadian Northern Quebec Railway Company. (Application 7063.)

Order made directing the railway company to put the branch line in order by ballasting the track, &c. Also to provide suitable platform by April 30, 1909. Also to supply baggage cars and suitable passenger cars. Also appoint a permanent agent at Montfort. The company to be liable to a penalty not exceeding \$50 for every day on which any violation of the provisions of this Order occur.

1160. Application of Thomas Crockett, shipper of lumber, shingles and ties, of Rivière du Loup station, province of Quebec, for an order to compel the Intercolonial Railway and its connecting companies to conform to the tolls section of the Railway Act and the previous orders of the Board relative to the carriage of cedar railway ties; referring more particularly to shipments from Rivière du Loup station to Bennington, Vermont. (Application 6836.)

Board after hearing application decided that it could exercise no measure of control which would in any way benefit the complainants and made no Order.

1161. Application of the Commercial Acetylene Company of New York, *re* classification for transportation by express companies in Canada subject to the Board, of acetylene gas when shipped under the so-called safety storage system? (Application 8801. Case 4146.)

Order made that express companies operating in Canada and under the jurisdiction of the Board are directed to accept and carry acetylene gas under the rules and regulations prescribed in connection therewith in the official classification No. 18, and at the rating therein provided. Also that a supplement be issued to express classification No. 16 as now in effect to provide for the said change becoming effective not later than May 1, 1909. Subsequently rescinded on ground of want of jurisdiction. Judgment will appear in next annual report.

1163. Complaint of the Transportation Bureau of the Montreal Board of Trade against stop-over charge made by the Canadian Pacific Railway Company at Cartier, Ontario, on western grain consigned to Cartier for Order and reshipment. (Application 8641.)

Order made that the charge of one cent per 100 pounds imposed by the Canadian Pacific Railway at Cartier on western grain and grain products in carloads consigned to Cartier for Orders under supplement No. 13, and by the Grand Trunk Railway at Sarnia tunnel on grain and grain products in carloads originating in western Canada destined to points in eastern Canada routed via Chicago, Chicago Junction or Milwaukee to Sarnia tunnel, Ontario, for orders under supplement No. 3, to the Canadian tariff C. R. C. No. 1-E-II-0-I, be disallowed and the stop-over charge of 25 cents per car for the first forty-eight hours and the car service toll thereafter substituted therefor. Order to become effective not later than February 15, 1909.

1164. Complaint of the Board of Trade of Guernsey, Saskatchewan, that the Canadian Pacific Railway Company's rate on grain to Fort William for re-shipment to points east, discriminates against Guernsey in favour of other shipping points in the same territory. (Application 8525.)

Complaint dismissed.

1165. Complaint of Robert Train, Nashville, Ontario, that the Canadian Pacific Railway Company have closed a highway or road allowance in the ninth concession of

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the township of Vaughan, being allowance for road between lots 25 and 26, 9th concession, township of Vaughan. (Application 8769.)

Complaint struck off the list, Board held it had no jurisdiction to award damages.

1166. Application of the Peters Coal Company, under section 226, for an order directing the Canadian Pacific Railway Company, to construct, maintain and operate a suitable switch and branch line or spur from the company's railway into the applicant's coal yard, situate on the north east corner of Elizabeth and Maria streets in the city of West Toronto and known as lots 1, 2, 3, 4 and 5, on the north side of Maria street, plan 740. (Application 8839. Case 4177.)

Application granted. Railway company to construct branch line by February 8, 1909. Applicants to deposit \$500 in some chartered bank to defray costs of construction.

1167. Application of the Grand Trunk Railway, under section 50, for an Order extending the time for the construction of the branch line and station authorized to be constructed between the Grand Trunk Railway's main line east of the Port Hope viaduct, and a point on the northern division, north of Ontario street, Port Hope, Ontario, by order of the Board No. 2333, dated December 16, 1906, for a period of two years from December 18, 1908. (Application 3675. Case 411.)

Application refused.

1168. Application of the Grand Trunk Railway Company, under section 29 of the Railway Act, for an Order varying Order of the Board No. 2757, dated March 27, 1907, by extending the time for the construction of the branch line until December 31, 1910, from a point on the Grand Trunk Railway between Orillia and Midland, near Tiffin, and running in a southerly direction through the townships of Tiny and Tay to the road allowance between lots 91 and 92, 2nd concession, township of Tiny, and across public highways. (Application 3686. Case 419.)

Application refused.

1169. Application of the Grand Trunk Railway Company under section 29 of the Railway Act, for Order varying Order of the Board No. 2757, dated March 27, 1907, which authorized the construction of a branch line from a point on its line of railway between Colwell and Penetanguishene, near Wyevalle, in the township of Tiny, county of Simcoe, province of Ontario, running in a northerly direction to the road allowance between lots Nos. 91 and 92, concession 2, township of Tiny, by extending the time for the construction of the branch line until December 31, 1910. (Application 3686. Case 421.)

Application refused.

1170. Application of the Grand Trunk Railway Company, under section 288 of the Railway Act, for Order allowing that company to leave out the filling and packing mentioned in section 288 of the Railway Act, from the month of December to the month of April in each year, both months inclusive. (Application 505.)

Application refused; Order made rescinding Order No. 836, dated 22nd December, 1905.

1171. Application of the city of Toronto for an Order, under sections 29 and 32 of the Railway Act, varying order of the Railway Committee of the Privy Council dated 11th March, 1902, respecting the protection of Dowling and Dunn avenues, Toronto, by the Grand Trunk Railway, by directing that the railway company bear the whole or part of the costs of the protection directed by said Order. (Application 14. Case 4254.)

Application refused.

1172. Complaint of W. D. Woodruff, of St. Catharines, Ontario, of failure of the Grand Trunk Railway Company to provide sufficient station and siding facilities near Vineland, between Beamsville and Jordan, for the handling of traffic for the Ontario Experiment Fruit Farm. (Application 8644. Case 4045.)

Complaint withdrawn.

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1173. Application of the council of the town of Listowel, Ont., for an Order compelling the Grand Trunk Railway Company and the Canadian Pacific Railway Company to make interswitching arrangements with each other so that the manufacturers will get the benefit of the service of both roads in Listowel, Ontario. (Application 8453. Case 3927.)

Application refused.

1174. Complaint of Hiram Walker & Sons, Limited, of Walkerville, Ontario, with respect to rates charged on joint traffic originating at Canadian Pacific Railway and Pere Marquette Railway points and destined to Walkerville, Ontario. (Application 4459. Case 4219.)

This case involves consideration of interswitching.

Order made fixing rates on grain shipped to Walkerville, Ontario, in carloads from the following places in Ontario: Elmstead, 3½c per 100 lbs.; Bell River, 3½c per 100 lbs.; St. Joachim, 4c per 100 lbs.; Haycroft, 4¾c per 100 lbs.; Tilbury, 4¾c per 100 lbs. Minimum weight 40,000 lbs. per car. Switching charges apportioned.

1175. Application of the Quebec, Montreal & Southern Railway Company for an Order directing the Rutland Railroad Company to change its existing derails at or near the junction point of its line with that of the Quebec, Montreal & Southern Railway and the Grand Trunk Railway at Noyan Junction. (Application 5482. Case 2104.)

(This application is set down for the purpose of settling the disposition of the cost of change of derails.)

Application granted; Order made directing applicants to pay expense of making the change.

1176. Application of Moise Francœur, parish of St. Jerome, county of Terrebonne, province of Quebec, for an Order directing the Canadian Northern Quebec Railway Company to provide a suitable farm crossing where the right of way of the company affects his property. (File 5932.)

Application granted; order made for crossing on southerly lot.

1176. Application of the town of Lachine, province of Quebec, for an Order directing the Grand Trunk Railway and Montreal Park and Island Railway to open Second avenue, in the town of Lachine, across the tracks of the railway companies. (File 8448. Case 3921.)

Application to stand. Town Lachine to have permission to widen the posts to get snow plough through. Grand Trunk Railway Company not to close the gates.

1178. Application of the Montreal Terminal Railway Company for an order authorizing the applicant to cross the Canadian Northern Quebec Railway opposite the Vulcan Cement Company's works in the parish of Longue Pointe, province of Quebec. (File 8915. Case 4225.)

Application granted. Order made for construction of spur as shown on plan.

1179. Petition of the trustees of Prince Albert school ward, Montreal, and others, for an Order requiring the Grand Trunk Railway to provide proper protection where its railway crosses Rose de Lima street, between St. James and Notre Dame streets, adjacent to the St. Henri depot. (File 7843.)

Order made directing the railway company to provide gates by April 15, 1909, and maintain the same. The city of Montreal to pay one-half the cost of protection, maintenance and operation.

1180. Complaint of Madame Plouffe, of failure of the Canadian Northern Quebec Railway to provide and construct a proper farm crossing between bents 2 and 3 of the trestle on her farm, mile 15, St. Jerome, St. Sauveur branch. (File 5718.)

Settled on report from the Board's engineer.

1181. Application of the Canadian Pacific Railway, for authority to construct, maintain and operate a branch line or spur in Montreal, across De Levis street to the premises of the Montreal Gas Company, now leased to the Montreal Light, Heat

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and Power Company, situate on cadastral, lot 159, Hochelaga ward, Montreal, a distance of about 1,780 feet, together with another siding about 550 feet in length. (File 8152. Case 3708.)

Application granted. Order issued.

1182. Application of McDiarmid & Gall, Montreal, province of Quebec, for an Order directing the railways to make an allowance of 72 hours for the unloading of charcoal in carloads instead of 48 hours allowed by the rules of the Canadian Car Service Bureau. (Application 7905.)

Order made refusing the application.

1183. Complaint of Rev. J. B. Grenier, St. Tite, province of Quebec, respecting alleged inefficiency of the train service of the Canadian Northern Quebec Railway between Quebec and Montreal; also station accommodation at Heronville, Garneau and St. Tite, province of Quebec. (File 8304.)

Upon the railway company undertaking to comply with the recommendations made by the Board's engineer in report, October 31, 1908, application adjourned till July sittings of Board, 1909.

1184. Complaint of the residents of the town of Sorel, province of Quebec, of the unsatisfactory manner in which the passenger and freight services are performed by the Quebec, Montreal and Southern Railway, and of the condition of the railway and station accommodation at Sorel and Pierreville, province of Quebec. (File 7628.)

Order made fixing location for new stations at Sorel and Pierreville.

1185. Complaint of Hyde & Webster, Montreal, province of Quebec, against the Canadian Pacific Railway prohibition of joint use of their private siding at Outremont, province of Quebec, by themselves and private parties. (File 8850.)

Matter adjusted by parties at the hearing. No Order issued.

1186. Complaint of the Montreal Produce Merchants' Association, Montreal, province of Quebec,—

(1) Respecting the disadvantage under which Montreal shippers are placed as compared with through shippers in the west in the matter of rates on cheese.

(2) Respecting the placing of cheese on a parity with bacon in the matter of freight rates.

(3) The great advance in freight rates which has taken place in the last few years. (File 5698.)

Stands for judgment. Chief Traffic Officer of Board to report.

1187. Application of the transportation bureau of the Montreal Board of Trade for an Order directing the Canadian Pacific Railway to apply the same mileage rates on grain in carloads between points on the company's line east of and including Montreal, province of Quebec, as are applied by the company between its stations in Ontario, west of Montreal, province of Quebec. (File 8730.)

Stands for judgment.

1188. Application of the St. Lawrence and Adirondack Railway Company for approval of highway crossings in the counties of Huntingdon, Beauharnois, Chateauguay and La Prairie, in the province of Quebec. (Application 8359. Case 3850.)

Application granted and Order issued subject to usual conditions of Board respecting highway crossings by railways.

1189. Approval of tariffs of tolls of express companies pursuant to the provisions of section 348 of the Railway Act. (File 4214. Case 1503.)

Unfinished. Further evidence to be taken.

1190. Complaint of the Sanataris Limited of Arnprior, Ontario, that under the new express classification for Canada effective January 1, 1909, return of empties, which have hitherto been carried free of charge are to be charged one-half the merchandise rate. (Application 9192.)

Judgment reserved. To be occasioned with general express matters.

1192. Application of the township of the front of Escott, in the county of Leeds, province of Ontario, under sections 235 to 242, inclusive, of the Railway Act, for an

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Order directing the Grand Trunk Railway Company of Canada, to provide and construct, immediately, to the east of the present crossing, a suitable overhead crossing, where the company's railway intersects at different level crossings, two and a half miles west of Mallorytown station the main travelled highway running from the village of Rockfield, in the township of Front of Escott, in a southerly direction to the village of Escott, P.Q. (Adjourned hearing.) (Application 4452. Case 1118.)

Application dismissed, leave to revive if applicant desire.

1193. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 237 of the Railway Act for leave to construct, maintain and operate two branch lines of railway or spurs, from a point on the applicant company's railway on Bethune street in the city of Peterborough:—

One crossing Bethune street to lot No. 9, north of Dalhousie street and No. 2 crossing Bethune street to lot No. 9, north of Wolfe street, in the said city of Peterborough, Ontario.

To consider revision of order No. 5132. (Application 6492. Case 2737.)

Application dismissed.

1194. Application of the Grand Trunk Railway Company of Canada, under section 176 of the Railway Act, for an Order to fix the compensation to be paid to the Grand Trunk Railway of Canada, by the Guelph and Goderich Railway Company for the use made of the lands and property of the Grand Trunk Railway at the town of Goderich, as provided in Order No. 4002, dated October 30, 1907, and which said Order authorized the Guelph and Goderich Railway Company to use and occupy the lands and premises of the Grand Trunk Railway for the construction of a bridge or grain carrier over the tracks of the Grand Trunk Railway Company of Canada in the said town of Goderich, Ontario. (Adjourned hearing.) Application 4733. Case 4067.)

Settled betewen parties.

1195. Application for approval of location of the Udney and Orillia branch from Mile 'O' at Udney, township of Mara to Mile '5.25' in same township, and for authority to cross several existing highways. (Application 8487. Case 3913.)

Settled by parties.

1196. Application of the municipality of Maxville, county of Glengarry, Ontario, under section 237 of the Railway Act, for an Order to compel the Grand Trunk Railway Company of Canada to open for traffic a highway across their railway at a point shown on plan filed with the Board marked 'A.' (Application 8316. Case 3824.)

Application granted. Order issued.

1197. Application of the corporation of the town of Oshawa, Ontario, under section 237, for an Order sanctioning the constructoin of a highway across the line of the Oshawa Railway Company at First avenue, Oshawa, Ontario. (Application 3820. Case 4159.)

Application granted. Order issued on consent.

1198. Application of the corporation of the town of Oshawa, under section 237, for an Order sanctioning a highway crossing across the right of way of the Oshawa Railway Company at Barry avenue, Ontario. (Application 8821. Case 4160.)

Application granted. Order issued on consent.

1199. Application of the Commissioners of the Transcontinental Railway, under section 227 of the Railway Act, for an Order granting leave to the applicants to cross the railway line and tracks of the Temiscouata Railway Company by a level crossing at a point about 12.2 miles on the Transcontinental Railway line, measured westerly from the town of Edmundston, in the county of Madawaska, N.B., or 46.62 miles from a point 2½ miles west of the town of Grand Falls. (Application 8830. Case 4168.)

Application granted. Order issued on consent.

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1200. Application of the Canadian Pacific Railway Company as lessee and exercising the franchise of the Toronto, Grey and Bruce Railway Company for an Order, under section 237 of the Railway Act, granting it authority to divert the present highway where it crosses its railway at Kleinburg in the township of Vaughan, county of York, Ontario. (Application 9054. Case 4322.)

Application dismissed.

1201. Petition of the trustees of Prince Albert school ward, Montreal, and others, for an Order requiring the Grand Trunk Railway Company to provide proper protection where its railway crosses Rose de Lima street, between St. James and Notre Dame streets, adjacent to the St. Henri depot. (Application 7843.)

Order issued directing railway company to erect and maintain gates on or before April 15, 1909, city to pay one-half cost of erection and maintenance and not to be liable for accidents at crossing.

1202. Application of the Toronto and Niagara Power Company, under section 159, for approval of location of its line from its transformer house in the county of Welland at Niagara Falls, through township of Stamford to the right of way of Niagara, St. Catharines and Toronto Railway near Wrights crossing in the vicinity of the town of Niagara Falls, Ontario. (Application 450. Case 3945.)

Application granted. Order issued.

1203. Application of the Commissioners of the Transcontinental Railway, under section 237 of the Railway Act, for an Order granting leave to the applicants to construct a level crossing for the railway line of the National Transcontinental Railway over the public highway running along the St. John river between Edmundston and Connors in the county of Madawaska and province of New Brunswick at a point on said railway about 46.52 miles measured westwardly from a point $2\frac{1}{2}$ miles west of the town of Grand Falls, and also to permanently divert such highway and construct another highway in lieu thereof. (Application 8830. Case 4178.)

Application granted. Order issued.

1204. Application of the Toronto Electric Light Company, Limited, under section 246 of the Railway Act, for leave to install and maintain their line of twelve underground tile ducts under and across the tracks of the Grand Trunk and Canadian Pacific Railway Companies, where the same cross Bloor street in the northwest part of the city of Toronto, Ontario. (Application 8872. Case 4193.)

Application granted. Order issued.

1205. Complaint of the Brotherhood of Railroad Trainmen alleging dangerous position of switches, switch-stands, bridge supports and structures generally by being placed so near to the tracks on which the employees of the Canadian Pacific Railway have to work at Kenora and Keewatin yards, Ontario. (Application 8891. Case 4208.)

Stands for report of Board's engineer.

1206. Application of Christie, Henderson & Co., Ltd., of the city of Toronto, county of York, Ontario, under section 226 of the Railway Act, for an order directing the Grand Trunk Railway Company to construct, maintain and operate a spur or branch line from the quarries of the applicants to the branch line of the said railway company between Harrisburg and Guelph, and to connect therewith at a point about two and a half miles northeasterly from the town of Hespeler.

And for payment by the said railway company of the costs and expenses incurred by the applicants of and incidental to this application; the railway company having unreasonably refused to construct the said spur at the point necessary for the industry of the applicants, upon any terms whatever. (Application 9171. Case 4391.)

Application granted. Order issued.

1207. Complaint of R. Finer and B. Daniels, of Longueuil, province of Quebec, against the train service of the Quebec, Montreal and Southern Railway Company between St. Lambert and Longueuil, province of Quebec. (Application 9193.)

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Stands pending carrying out of proposed agreement between Quebec, Maine and Southern Railway and Grand Trunk Railway.

1208. Consideration of draft Order of the Board in connection with equipment of non-platform cars with proper operating levers, dispensing with the operating wheel at present in use on the ends of such cars. (Application 9000. Case 4294.)

Application granted. Order issued.

1209. Consideration by the Board of the question of providing better protection of wooden trestles and bridges on lines of railway subject to the jurisdiction of the Board. (Application 4966. Case 1860.)

Stands adjourned to June sittings, 1909.

1210. Application of the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, in pursuance of paragraph 6 of Order of the Board, dated 23rd of February, 1905, for an order fixing the compensation to be paid by the Canadian Northern Railway Company (formerly the James Bay Railway Company) for the use of the Union station property at Toronto, including the service and accommodation provided, and at present and for some time past used and enjoyed by the Canadian Northern Ontario (formerly James Bay Railway Company). (Adjourned hearing.) (Application 588. Case 3208.)

Order made directing Canadian Northern Railway to pay to this date on basis of present agreement, future payments to be agreed upon or settled by the Board.

1211. *Re* Toronto Viaduct and Union station; settlement of terms of draft Order herein. (Application 588. Case 3322.)

Stands, railway companies agreeing to file plans within three months. Details of Order to stand for settlement.

1212. Application of the Bay of Quinté Railway Company for an Order, under section 364 of the Railway Act, and under any other section applicable to the circumstances of the case ascertaining and settling the compensation payable by the applicant to the Kingston and Pembroke Railway Company, in respect to the running rights possessed by the applicant over the Kingston and Pembroke Railway Company's railway from Harrowsmith to Kingston, Ontario. (Application 8886. Case 4201.)

Application dismissed. No jurisdiction.

1213. Application of Messrs. McDonald & O'Brien, Hervey Junction, province of Quebec, under the Railway Act, for an order providing for joint freight traffic from points on the Canadian Northern Quebec Railway to points on the Quebec and Lake St. John Railway. (Application 8472.)

Order made fixing the minimum charge of \$5 per car in a through shipment of new empty cars over two or more lines of railway. The Canadian Northern Railway Company to submit at once a joint tariff for shipment of new empty cars over the Canadian Northern Quebec Railway lines and the Quebec and Lake St. John line. The Canadian Freight Association to submit at once an amendment to Canadian classification providing for lower minimum charge to apply to new empty cars by joint route of two or more lines of railway.

1213a. Complaint of Hyde & Webster, contractors, Montreal, P.Q., that the Grand Trunk Railway charges 6c. per 100 pounds on bricks C. L. Casselman to Montreal, Canadian Pacific Railway delivery via Jacques Cartier Junction. (Application 9116.)

Order made dismissing application.

1214. Complaint of S. G. Detchon, of Chicago, Ill., that the Grand Trunk Railway has refused to pay its proportion of alleged overcharge on shipment of frosted wheat from Girvin, Sask., on the Canadian Northern Railway, between Regina and Saskatoon, during December and January, 1907 and 1908, the other companies interested, namely, the Canadian Northern Railway and the Canadian Pacific Railway, being prepared to settle. (Application No. 7097.)

Settled; payment made by Canadian Northern Railway.

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1215. Application of James Richardson & Sons, Kingston, Ontario, under the Railway Act, for an order directing the railway companies to file rates from Kingston to points in the maritime provinces on grain ex-upper lake ports, similar to those which the Grand Trunk and Canadian Pacific Railways have established from Georgian bay and Lake Huron ports. (Application 8315.)

Ordered that the rates charged from Kingston by the Grand Trunk Railway Company of Canada, the Canadian Pacific Railway Company and the Kingston and Pembroke Railway Company, on western grain arriving at Kingston by vessel and destined to points in Quebec and the maritime provinces, be made on the basis of 7 cents per 100 pounds from Kingston to Montreal; and that the proportional or 'arbitrary' rates from Montreal to the said points in Quebec and the maritime provinces, to be added to the said rate of 7 cents per 100 pounds from Kingston to Montreal, do not exceed the proportional or 'arbitrary' rates from Montreal in force concurrently on western grain transferred at Lake Huron ports.

Also that the above rate become effective not later than the 16th of February, 1909.

1216. Complaint of J. B. Stringer & Co., of Chatham, Ontario, alleging discrimination against Chatham in the freight rates of the Canadian Pacific Railway on corn as compared with rates from other points. (Application 9114.)

Order made dismissing complaint.

1217. Application of the Canadian Freight Association, under Order of the Board No. 3258, dated July 6, 1907, for an order cancelling or reviving the existing commodity rates on wire fencing and netting from Windsor, Stratford, Owen Sound, Hamilton and Welland, Ontario. (Application 7346. Case 3210.)

Application granted except that carload commodity rates from Hamilton, Windsor and Walkerville, Ontario, to points east of Toronto are scaled as set forth in the Order. These rates to take effect not later than the 26th April, 1909.

1218. Complaint of the Dominion Millers' Association, Toronto, Ontario, under section 317 of the Railway Act, alleging that the Canadian Pacific Railway Company has unjustly discriminated and does unjustly discriminate in its method of dealing with shipments of grain and flour from Fort William and Owen Sound, Ontario, against the millers of the east and in favour of shipments of grain and flour as aforesaid for export. (Application No. 4752. Case 1455.)

Application withdrawn.

1219. Approval of tariffs of tolls of express companies pursuant to the provisions of section 348 of the Railway Act. (Application 4214. Case 1503.)

Partially heard.

1220. Application of the Express Traffic Association for an order permitting them to file for approval, express freight classification, graduated rate tables, money classification, C.R.C. Nos. 1, 2, 3 for Canadian business; and to withdraw Canadian classification and money classification, C.R.C. Nos. 1 and 3, filed on March 1, 1907. (Application 4397. Case 3693.)

Partially heard.

1221. Application of the Canadian Pacific Railway Company, under section 59 of the Railway Act, for an Order directing re-apportionment of the cost of maintaining day and night watchmen at the point where the applicant company's railway crosses Main street in the village of Fairville, N.B.

Order made directing each of the parties to pay one-third of cost.

1222. Complaint of W. F. Hatheway Company, Ltd., Geo. E. Barbour Co., Ltd., Hall & Fairweather, Ltd., C. H. Peters & Sons and A. C. Smith & Co., *re* rates on exportation of our from city of St. John to different water points.

Application dismissed.

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1223. Complaint of the St. John, N.B., Board of Trade, on behalf of its members, that the C. P. R. Co. is charging 50 cents per short ton shunting charges on goods from steamships at West St. John to his factory, a distance of $4\frac{3}{4}$ miles.

Application dismissed.

1224. Complaint of the St. John Board of Trade regarding increased rate over the Dominion Atlantic Railway steamship route between St. John and Digby.

Application dismissed.

1225. Complaint of Irwing R. Todd, St. Stephens, N.B., against the Canadian Pacific Railway Company regarding rates on pulpwood.

Application dismissed.

1226. Complaint of the Maritime Cornmeal Mills (C. W. Stewart) respecting export milling rates on meal).

Stands for judgment. Chief traffic officer to report.

1227. Complaint of Horace Haszard, Charlottetown, P.E.I., *re* express rates and service of Canadian Express Company (file 4621.)

Stands to be dealt with when general question of express rates is disposed of.

1228. Complaint of H. E. Baker Company, Limited, Sydney, C.B., *re* express rates on lobsters, charged by Canadian Express and other express companies. (File 3872.)

Stands to be dealt with when general question of express rates is disposed of.

1229. Complaint of Thomas Potts, St. John, N.B., *re* express rates on fruit from Niagara district, Ontario. (File 5028.)

Stands to be dealt with when general question of express rates is disposed of.

1230. Complaint of North Queens' Board of Trade, Caledonia, Nova Scotia, *re* express rates charged by the Maritime Express Company. (File 3924.)

Stands to be dealt with when general question of express rates is disposed of.

1231. Complaint of A. M. Fraser, Halifax, Nova Scotia, *re* express rates on typewriters from Woodstock, N.B., to Halifax, Nova Scotia, charged by Dominion Express Company; and *re* complaint of Soulis Newsome Typewriter Company, Halifax, Nova Scotia, as to express rates on unboxed typewriters. (File 3274.)

Stands to be dealt with when general question of express rates is disposed of.

1232. Complaint of John Hopkins in *re* express charges of the Dominion Express Company. (File 3280.)

Judgment reserved.

1233. Complaint of Sackville Board of Trade, N.B., in *re* express rates. (File 4566.)

Stands to be dealt with when general question of express rates is disposed of.

1234. Complaint of Messrs. Davis & Fraser, Halifax, N.S., *re* express rates from Charlottetown, P.E.I., to points in New Brunswick and Nova Scotia. (File 6360.)

Judgment reserved.

1235. Application of George Frederick Stiles under sections 252 and 253 of the Railway Act, for an order directing the Canadian Pacific Railway Company to provide and construct a suitable farm crossing where the railway company's right of way affects the property of the applicant on lot No. 19, concession No. 2, in the township of London. (Application 5481. Case 4056.)

Application refused.

1236. Application of the Canadian Pacific Railway Company, under section 186 of the Railway Act, 1903, for leave to cross with its Sudbury-Kleinburg branch, certain highways in the town of Vespra, in the county of Simcoe, Ontario. (Application 3911. Case 605.)

Application granted. Order issued in terms of agreement filed.

1237. Application of the Canadian Pacific Railway Company, as lessee and exercising the franchise of the Toronto, Grey and Bruce Railway Company, for an Order, under section 237 of the Railway Act, granting it authority to divert the present high-

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way where it crosses its railway at Kleinburg, in the township of Vaughan, county of York, Ontario. (Application 9054. Case 4322. Adjourned hearing.)

Application dismissed.

1238. Application of the Crawshaw Bros., of Scotch Block, Ontario, for an Order under the Railway Act, directing the Grand Trunk Railway Company to provide a siding for the handling of traffic to and from their quarry, or to restore the old 'Lawson siding' for this purpose. (Application 8963. Case 4259.)

Application refused.

1239. Application of the corporation of the city of Hamilton for an Order, under the Railway Act, directing the Toronto, Hamilton and Buffalo Railway Company and the Canadian Pacific Railway Company to provide and construct a suitable highway bridge over the tracks of the company at the intersection of the line of the company at Garth street in the city of Hamilton. (Adjourned hearing.) (Application 1592. Case 2739.)

Application granted. Order for wooden bridge, cost to be borne $\frac{1}{4}$ by city and $\frac{3}{4}$ by railway company. Plans to be submitted for approval of Board.

1240. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for leave to construct branch lines in the town of Parry Sound, as shown on the plan filed with the Board.

NOTE.—The above application to be considered in connection with an application of the company under date of the 6th of January, 1909, withdrawing from the above application all the portion thereof relating to lines south of Seguin river and east of Seguin street, so that only one branch is to be built north of the Seguin river terminating at or near the west side of Seguin street.

In conjunction with the above application will be considered the application of the Canadian Northern Railway Company, under section 175 of the Railway Act, 1903, for authority to construct, maintain and operate a branch line from its main line in the town of Parry Sound to the outer harbour, as shown on the plan, profile and book of reference on file with the Board under file 3939, case 625a.

Covered by Order issued in application 3939 of Canadian Northern Railway.

1241. Complaint of F. B. Stevens & Co., of Chatham, Ont., alleging discrimination against Chatham in the freight rates of railways on corn as compared with rates to other points. (Application 9195.)

Application dismissed.

1242. Application of the Canadian Pacific Railway Company for an Order, under section 29 of the Railway Act, rescinding order of the Board dated July 25, 1905, fixing the rate to be charged for the interchange of traffic and interswitching of cars over the branch line of the Grand Trunk Railway Company connecting with the Canadian Pacific Railway Company at London, Ontario. (Adjourned hearing.) (Application 689. Case 4055.)

Stands for judgment.

1243. Application of the Wallaceburg Sugar Company, Ltd., of Wallaceburg, Ontario, for an Order establishing what is generally known as an 'average' demurrage plan. (Adjourned hearing.) (Application 8913. Case 4223.)

Application dismissed.

1244. Complaint of Alfred Swanson, Brookdale, Man., that the Canadian Pacific Railway have not paid him for land taken by the railway for the construction of its McGregor-Varco branch, being part of the north half of 32-12-16, and the south-east quarter of 6-13-16 W. (Application 8852.)

Referred to Board's engineer to inspect and report in spring as to the accumulation of water upon the lands of the applicant caused by the construction of the railway.

1245. Petition of the residents of Sinclair, Manitoba, that the Canadian Pacific Railway Company be directed to provide a side track halfway between Reston and

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Sinclair, Manitoba, for the accommodation of traffic of the district. (Application 8853.)

Application refused.

1246. Complaint of Mrs. J. E. Collins of failure of the Canadian Northern Railway Company to settle her claim against the railway company for right of way over S.W. 32-27-29. (Application 9151.)

Application dismissed.

1247. Application of Theo. A. Burrows, of Grandview, Manitoba, for Order directing the Canadian Northern and Grand Trunk Pacific Railway to provide transfer facilities for the joint handling of traffic between the railway companies at Petrel, Manitoba. (Application 5898.)

Order made directing Canadian Northern Railway Company to construct transfer tracks before June 1, 1909, each company to pay half the cost.

1248. Complaint of Graingrowers' Association, of Ashville, Manitoba, of failure of the Canadian Northern Railway Company to fence its right of way between Dauphin and Gilbert Plains, Manitoba. (Application 9202.)

Order made upon undertaking of counsel for right of way to be fenced on or before September 1, 1909, between Gilbert Plains and Dauphin.

1249. Resolution of Order of Railway Conductors, the Brotherhood of Locomotive Firemen and Engineers, Brotherhood of Railway Trainmen and Order of Railway Telegraphers, relative to reduction of section gangs, the 'cross' snow plough, and *re* terminal clearance (as at present used), being embodied in the proposed new rules. (Application 6613.)

Application dismissed.

1250. Application of the Canadian Pacific Railway Company, under section 222 of the Railway Act, for an Order granting authority to construct, maintain and operate a branch line of railway or spur at Beausejour, from a point in the centre line of the most southerly siding of said railway, distant about 200 feet westerly from the westerly limit of station produced, thence in a southwesterly direction across portion of northwestern quarter of section 36, township 12, range 7, east across road allowance to and into the premises of J. L. Turner. (Application 6376.)

Application granted. Order issued.

1251. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, for an Order authorizing the construction, maintenance and operation of the branch line of railway or spur from a point on the centre line of the town siding of the applicant company, distant about 55 feet westerly from the head block of the said town siding, thence in a southwesterly, southerly, and again southwesterly direction across part of the north meridian, across and along the road allowance to and into the northwest quarter of section 36, township 12, range 7, east principal meridian, in the province of Manitoba, a total distance of about 2,280 feet. (Application 1155.)

No Order made, as the Order in previous application covers this also.

1252. Complaint of Winnipeg Elevator Company, Limited, respecting certain charges made by the Canadian Pacific Railway for drawing plans, preparation of leases of elevator sites, &c. (Application 8530.)

Application refused. Board has no jurisdiction.

1253. Application of the city of Winnipeg, Manitoba, for an Order authorizing them to construct a bridge between Brown and Brant streets, in the city of Winnipeg, over the yards of the Canadian Pacific Railway, and directing the railway company to contribute towards the cost of construction of said bridge such sums as to the Board seems just. (Application 5729.)

Application dismissed.

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1254. Application of the Canadian Pacific Railway, under section No. 237 of the Railway Act, for authority to lay tracks across the road allowance on its Molson branch between mile 99 and mile 124. (Application 7653.)

Application granted. Order issued.

1255. Application of the corporation of the city of Winnipeg, Manitoba, under the Railway Act, for authority to connect the tramway of the city of Winnipeg, running from Lac du Bonnet to Point du Bois, with the branch of the Canadian Pacific Railway Company running from Molson to Lac du Bonnet (Application 6845. Case 2927.)

Application dismissed.

1256. Application of the city of Winnipeg, Manitoba, under section 237, for an Order directing the Canadian Pacific Railway Company to provide and construct a suitable highway crossing over its line of railway between Talbot avenue and Carter avenue, or in the alternative to allow the city to construct such crossing or for such order as to the Board seems just. (Application 8223. Case 3769.)

Order made granting applicant leave to construct crossings over Louise bridge spurs at Talbot, Chalmers, Poplar and Gordon streets and over Selkirk branch at Talbot, Chalmers and Nairn streets, expenses to be borne by the city of Winnipeg.

1257. Application of the city of Winnipeg, Man., for Order directing the Canadian Pacific Railway to remove its tracks from McPhillips street, Winnipeg, Manitoba. (Application 2050.)

Stands at request of applicant to arrange a settlement.

1258. Complaint of the Hanbury Manufacturing Company of Brandon, Man., alleging discrimination in favour of Winnipeg on shipments to points on Regina branch of Canadian Northern Railway via Regina, from Brandon and Winnipeg, Man. (Application 7308.)

Application dismissed. Complaint settled.

1259. Petition of the secretary of the Board of Trade and residents of Welwyn, Sask., that the Canadian Pacific Railway Company appoint and maintain a permanent agent at that point. (Application 9274.)

Withdrawn by applicant.

1260. Complaint of the Manitoba Grain Growers' Association, of Kellie, Manitoba, against the Canadian Pacific Railway Company removing its agent from that point. (Application 9115.)

Application dismissed.

1261. Petition of residents of Basswood and surrounding district that the Canadian Pacific Railway Company be required to keep the station at that point open permanently and provide an agent therefor. (Application 9126.)

Counsel stated the company is appointing agent at Basswood.

1262. Complaint of George Steel, Glenboro, Manitoba, of failure of the Canadian Pacific Railway to furnish an efficient and proper supply of cars for the movement of grain traffic from that point. (Application 8808.)

Application dismissed.

1263. Complaint of the Swan River Board of Trade, of Swan River, Man., alleging failure of the Canadian Northern Railway to furnish cars for prompt and efficient movement from that point. (Application 4824.)

Application dismissed.

1264. Complaint of M. McGregor, of Tilston, Man., on behalf of the farmers and citizens of that town against the poor service of the Canadian Pacific Railway between Lauder and Tilston, Man. (Application 9125.)

Application dismissed.

1265. Application of the Williams Quarry Co., Ltd., of Winnipeg, Man., for an Order directing the Canadian Pacific Railway Company to remove illegal and unjust

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discrimination in freight rates on shipments of the products from their quarry at Airedale, Man., to Winnipeg, Man. (Application 8494. Case No. 3956.)

Application dismissed.

1266. Complaint of the Manitoba Grain Growers' Association, alleging that the Canadian Pacific Railway Company and Canadian Northern Railway Company charge excessive freight rates on bulkheaded cars of grain going to Fort William and Port Arthur, Ont. (Application 8688.)

Application dismissed.

1267. Application of the Kemp Manufacturing Company and Winnipeg Ceiling and Roofing Company, for an order directing the railway companies to equalize their freight rates on metallic shingles and sidings from eastern points to points in Manitoba, Saskatchewan and Alberta, as against the freight rates charged on the manufactured product. (Application 4756. Case No. 1460.)

Application dismissed.

Note.—Since dismissal applicants have applied to have case reinstated and the request was granted and the matter heard in Winnipeg, March 10, 1909, and stands for judgment.

1268. Complaint of Grain Growers' Association, Winnipeg, alleging long delay on the part of the railways in repayment to shippers of grain for lumber supplied for car doors. (Application 8483.)

Order made that where shippers upon railways subject to the jurisdiction of the Board in the provinces of Manitoba, Saskatchewan and Alberta are compelled to furnish car doors to enable cars to be used for traffic, allowance is to be made therefor upon the following basis: (1) Lower car door, one dollar; (2) upper car door, fifty cents; and adjustment upon the above basis shall be made by the agent at or nearest to the point of shipment by (a) at the time of shipment, payment to the shipper of the account out of funds of the railway company, of which he is agent, in his hands; or (b) the shipper may deduct from the freight charges, if any, payable by him upon the shipment in such car for which the said door or doors were so supplied, the amount of such bill upon the foregoing basis, receipting the same and turning the account into the agent as so much cash.

1269. Application of the Winnipeg Jobbers' and Shippers' Association, of Winnipeg, Man., for an order requiring railway companies to provide car-load rating from eastern Canada points to Winnipeg, Man., on blankets. (Application 4603. Case 1313.)

Application refused.

1270. Application of the Western Live Stock Shippers' Association, under sections 284 and 317 of the Railway Act, for an Order directing the Canadian Pacific Railway Company and the Canadian Northern Railway Company to furnish certain facilities for the receiving, unloading, accommodation and transportation of live stock. (Application 8234.)

Note.—This case is specially set down for February 3, 1909.

Referred to Board's operating assistant to inspect and investigate in May or June.

1271. Application of the Western Live Stock Shippers' Association, under section 323 of the Railway Act, for an Order directing the railway companies to reduce: (a) The existing freight tariff for cattle and live stock from points in the provinces of Alberta, Saskatchewan and Manitoba to Winnipeg. (b) The minimum car weight of hogs from 20,000 pounds to 16,000 pounds. (Application 8233. Case 3773.)

Stands for judgment and for report of Chief Traffic Officer of Board.

1272. Application on behalf of Joseph Lemon and others for an Order providing that liability for loss or damage to shipment of horses shall not be limited to \$100 for each animal, but that fair value shall be recovered. (Application 8214. Case 3761.)

By agreement complaint dropped and matter to go to the Canadian Freight Association.

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1273. Complaint of R. S. Robinson, of Winnipeg, Manitoba, against the restriction imposed by the Dominion Express Company in the carriage of furs to Great Britain by charging excessive rates for insurance on goods. (Application 8859.)

Reserved until general question of express rates dealt with.

1274. Application of the Canadian Northern Express Company with respect to division of earnings on what is referred to by the Canadian Northern and Dominion Express Companies as special traffic matter, embracing packages not over seven pounds, and certain printed matter carried in competition with the post office, shipped from points east of Sudbury or North Bay to northern points west of Winnipeg; subsection 5, section 'C,' page 18 of the Express Freight Classification for Canada, No. 1 revised to August 1, 1905. (Application 4397.)

Reserved until general question of express rates dealt with.

1275. Complaint of Denmark & Burton, of Langenburg, Saskatchewan, alleging excessive rates charged by the Dominion Express Company on cream shipments. (Application 8539.)

Application dismissed.

1276. Complaint of Manitoba 'Free Press,' Telegram Printing Company, and Tribune Publishing Company, of Winnipeg, Manitoba, respecting rates charged by express companies for the carriage of newspapers. (Application 8555.)

Reserved until general question of express rates dealt with.

1277. Complaint of the Winnipeg Jobbers and Shippers' Association of Winnipeg, Manitoba, alleging excessive express rates and unfair classification of express companies doing business in western provinces. (Application 4798.)

Reserved until general question of express rates dealt with.

1278. Application of the Express Traffic Association for an Order permitting them to file for approval express freight classification, graduated rate tables, money classification, C.R.C. Nos. 1, 2 and 3, for Canadian business; and to withdraw Canadian classification and money classification, C.R.C. Nos. 1 and 3 filed on March 1, 1907. (Application 4397. Case 3693.)

Stands for judgment.

1279. Approval of tariffs of tolls of express companies pursuant to the provisions of section 348 of the Railway Act. (Application 4214. Case 1503.)

Stands to be dealt with when general question of express rates is disposed of.

1280. Application of W. R. Ritchie, of Winnipeg, Manitoba, for an Order compelling the Canadian Northern Railway to either proceed to arbitration or withdraw the registration of their location where the same affects his property on lots 33 and 34, block 8, D.G.S. 30, St. Boniface, Man.

Application granted. Order issued.

1281. Complaint of the Winnipeg Board of Trade, respecting alleged demand of the Canadian Pacific Railway, that shippers in Winnipeg sign a release form for freight shipped to regular or flag stations. (Application 2338.)

Order made, that from February 8, 1909, the form of release of responsibility for freight shipped to flag stations, upon the lines of all railways in Canada, subject to the jurisdiction of the parliament of Canada, be in the following form:—

'In consideration of the Railway Company
having received the above described property for transportation from
station to station
do hereby release said company from all loss or damage that may occur to any of
the above mentioned property after it has been unloaded from the cars at
station, the said station being a flag station without agent.'

It is also Ordered that no other form of release shall be required to be signed by any shipper of any property to any flag station upon any line of railway in Canada until further Order (if any) regarding facilities and conveniences to be established by railway companies at flag stations.

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1282. Complaint of Jefferson Cowerly, of Bowsman, Manitoba, respecting train service and condition of the Melfort branch of the Canadian Northern Railway. (Application 2145 and 2192.)

Application dismissed.

1283. Petition of the legislative assembly of Manitoba, asking that railways operating in the province of Manitoba be required to pay demurrage in all cases where such companies are not able or fail to furnish cars within one week after being ordered, said demurrage to be at the same rate per day as charged by railway companies when a car is not loaded in a given time after being placed at a loading platform or elevator, and to be deducted from the freight rate. (Application 4235.)

Stands at request of Attorney General for province of Manitoba until next sittings of Board in Winnipeg.

1284. Complaint of the Nepigon Bay Fish Company and other shippers at fish shipping points along the north shore of Lake Superior, of refusal to the Canadian Pacific Railway and Dominion Express Company to carry fish on passenger trains. (Application 4910.)

Application dismissed.

1285. Application of D. A. Keizer, C.E., engineer of the municipality of St. Pauls, for authority to lay a culvert under the tracks of the Canadian Pacific Railway at Rossmore avenue, lot No. 3, St. Paul's parish. (Application 2433.)

Application dismissed.

1286. Complaint of the Manitoba branch of the Canadian Manufacturers' Association, respecting rates of express companies doing business in western Canada.

Reserved until after general question of express rates dealt with.

1287. Complaint of Geo. W. Jones Company respecting delivery limits of express companies doing business in Winnipeg, Manitoba, and extra charges for delivery of shipments beyond such delivery limits.

Reserved until after general question of express rates dealt with.

1288. Complaint of the municipal council of the town of Dauphin, Manitoba, alleging neglect of the Canadian Northern Railway Company to build suitable crossings, fences and cattle-guards on its Winnipegosis and Swan River sections. (Application 9289.)

Stands to be treated as an application to compel Canadian Northern Railway Company to fence their line and to be dealt with by general order of Board at May sittings, Ottawa.

1289. Application of Thomas Littlejohn, of Crandall, Manitoba, under section No. 253 of the Railway Act, for an order directing the Grand Trunk Pacific Railway to provide and construct a suitable farm crossing where the company intersects his farm in section 29, township 13, range 25, Manitoba. (Application 9275. Case 4456.)

Application granted.

1290. Application of the Grand Trunk Pacific Railway Company to compel the municipalities of Miniota and Hamiota to remove wires which have been placed across the tracks of the company without the authority of the Board. (Application 9221.)

Upon consent of applicant company, matter stands, Board granting permission to municipality to file application under section 246, Railway Act, to carry wires over Grand Trunk Pacific Railway tracks.

1291. Complaint of Manitoba Wind Mill and Pump Company, Brandon, Manitoba, re the express rates and service of the express companies doing business in the west.

Reserved until after the general question of express rates is dealt with.

1292. Petition of people from Rosenfeld that Canadian Pacific Railway bridge over Buffalo lake causes damage to lands from flooding.

Reference to Board's engineer; the applicants to notify him when to go and inspect.

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1293. Complaint of John Bearns, Limited, Winnipeg, Manitoba, respecting express rates and service.

Reserved until after the general question of express rates dealt with.

1294. Complaint of the Winnipeg Wholesale Implement Association, respecting rates charged by express companies operating in western Canada.

Reserved until after the general question of express rates is dealt with.

1295. Application of the city of Winnipeg for an Order directing the Canadian Northern Railway Company to provide proper protection where its railway crosses Pembina street, Winnipeg. (File 1124. Case 406.)

Application dismissed.

1296. Application of the city of Winnipeg, Manitoba, for an Order approving of the plans of the Salter street bridge across the tracks of the Canadian Pacific Railway at Winnipeg. (File 3084.)

Standing for settlement between the parties.

1297. Application of the city of Winnipeg for an Order directing the Canadian Pacific Railway, Canadian Northern Railway, and the Grand Trunk Pacific Railway companies and other companies operating trains to prevent the unnecessary and unreasonable emission of smoke from engines, and for an Order prohibiting whistling by locomotives within the city. (File 9346. Case 4489.)

Order made and issued dealing with emission of smoke and prohibiting unreasonable and unnecessary whistling.

1298. Complaint of D. L. Stewart on behalf of the village of Rosenfeld, Man., regarding the stopping or obstructing of a water course by the Canadian Pacific Railway Company. (Application 9515.)

Stands for report of Board's engineer. Applicants to notify engineer when he is to go to make inspection.

1299. Complaint of the city of St. Boniface under section 26 of the Railway Act, that the Canadian Northern Railway Company has failed to comply with the Order of the Board, dated October 16, 1905. (File 1413.)

Application dismissed as arrangement made between the parties.

1300. Complaint of the Anchor Elevator and Warehousing Company regarding the interpretation given by the Canadian Northern Railway Company of tariff C. N. No. 462 dealing with switching charges between the Canadian Northern Railway and sidings on the Canadian Pacific Railway in Winnipeg. (Application 9816.)

Judgment of Board that \$5 charge is reasonable and tariff should be filed accordingly. That tolls in excess of \$5 already paid cannot be refunded. Canadian Pacific Railway Company added as a party respondent.

1301. Complaint of the Northern Elevator Company regarding switching charges on grain consigned from Canadian Northern points to complainant's terminal elevator on Canadian Pacific Railway tracks in Winnipeg.

See judgment in application No. 9816 immediately preceding.

1302. Petition of residents of the districts of Silver Plains, Manitoba, regarding train service to Winnipeg on the Great Northern Railway.

Order made directing trains to stop at St. Agathe.

1303. Application of A. E. Hill, of Griswold, Man., for an Order directing the Canadian Pacific Railway Company to issue 1,000 mile ticket at \$25 to travel over the western division and branch lines in Manitoba, Saskatchewan and Alberta.

Application dismissed.

1304. Complaint of H. H. Shields, of Melton, Man., against excessive rates charged by the Canadian Northern Railway Company for warehousing carload of wheat consigned to their warehouse at Port Arthur, Ont. (File 9022.)

Application refused.

1305. Application of M. McGregor, of Eagleton P.O., Tilston, Man., for a semi-weekly mail service by train instead of by stage or mail carrier system; for an Order

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that an agent be placed at the station in question; and for an order directing the Canadian Pacific Railway Company to re-name the town 'Eagleton.'

Application dismissed.

1306. Application of city of Winnipeg to conduct sewer under Brown & Rutherford's spur, Canadian Pacific Railway, where same crosses Sutherland avenue, Winnipeg. (Application 9363. Case 4494.)

Application granted; order issued.

1307. Application of city of Winnipeg to construct sewer under West Selkirk branch of Canadian Pacific Railway where same crosses Aberdeen avenue, Winnipeg. (Application 9539. Case 4609.)

Application granted. Order issued.

1308. Application of city of Winnipeg to construct sewer under Winnipeg Transfer Railway (Canadian Northern Railway) where same crosses Lombard street, Winnipeg. (Application 9596. Case 4659.)

Application granted. Order issued.

1309. Application of the Canadian Northern Quebec Railway Company, under section 167, for approval of deviation of its railway in parish of Cap Sante, county of Portneuf, P.Q., between stations 1417—49 to 1473—39.7 west of Quebec bridge. (Application 668. Case 3725.)

Application granted. Order issued.

1310. Application of the Canadian Northern Ontario Railway, under section 159, for an Order approving of the location of its line of railway through the town of Trenton, county of Hastings, mile 144 to mile 146, west from Ottawa. (Application 3878. Case 1554.)

Application withdrawn.

1311. Application of the Canadian Pacific Railway, under section 26, for an Order directing the Ingersoll Electric Light and Power Company to remove forthwith twelve wires erected by the said electric company across the railway company's tracks in the town of Ingersoll, on the east side of Thames street, or for an order directing the said electric company to re-erect said wires forthwith and to maintain the same in accordance with the standard conditions and specifications respecting wire crossings sanctioned by the Board. (Application 1516. Case 4356.)

Order issued directing the electric company to re-erect their wires in accordance with conditions named by Board's electrical engineer. Work to be completed by 2nd April, 1909. Penalty of \$25 for every day default is made in complying with terms of Order.

1312. Complaint of Owen Davidson, Almonte, Ontario, *re* alleged excessive whistling of engines of the Canadian Pacific Railway within the town of Almonte, Ontario. (Application 8426.)

Application dismissed.

1313. Application of the Canadian Pacific Railway, under sections 222 and 237, for an Order authorizing the construction, maintenance and operation of a branch line of railway or spur in the city of Montreal, commencing from a point on the centre line of the most westerly track leading to the freight car repair shop of the said company, distant about 250 feet northerly from the northerly end of freight car shop, thence in a southwesterly and northwesterly direction across De Levis street to and into the premises of the Montreal Gas Company, now leased to the Montreal Light, Heat and Power Company, situated on Cadastral lot 159 in the Hochelaga ward of the city of Montreal, a distance about 1,780 feet, together with another siding about 550 feet in length. (Adjourned hearing.) (Application 8152. Case 3708.)

Application granted, Order issued.

1314. Application of the Canadian Pacific Railway, under section 178, for authority to take lands adjoining its railway in the city of Montreal, P.Q., as shown on plan filed with the Board.

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Lands adjoining Place Viger station. Application 9332. Withdrawn by Canadian Pacific Railway Company.

1315. Application of the Canadian Pacific Railway, under section 29, for an Order of the Board No. 3242, in reference to the crossing of the National Transcontinental Railway and the Canadian Pacific Railway at St. Basile, P.Q. (Application 2642. Case 4455.)

Application dismissed.

1316. Application of the Export Lumber Company, Ottawa, Ontario, under sections 227 and 284, for an Order directing the Grand Trunk Railway and the Canadian Pacific Railway to provide a connection by a branch line between the sidings of these two companies at present constructed across Preston street and York street, Ottawa, Ontario, for the purpose of affording more adequate facilities for the applicant company. (Adjourned hearing.) Application 8791. Case 4139.)

Application refused.

1317. Application of the Export Lumber Company, Ottawa, Ontario, under sections 226 and 227, for an Order directing the Grand Trunk Railway to permit its siding, as constructed across Preston street, Ottawa, to be joined with proposed siding of the applicant company, in its lumber yard at Preston street, Ottawa, Ontario. (Adjourned hearing.) (Application 8790. Case 4138.)

Application granted. Grand Trunk Railway Company directed to permit siding to be joined with proposed siding of the applicant as shown on plan filed.

1318. Application of the People's Telephone Company, Sherbrooke, province of Quebec, for an Order directing the Grand Trunk Railway to permit them to install telephones in ticket and freight offices of its railway at Richmond, Danville, Windsor Mills, Bromptonville, Sherbrooke, Lennoxville, Waterville, Compton, Coaticook, Dixville and Norton's Mills. (Application 8883. Case 4375.)

Judgment reserved. Subsequently general form of Order for this and like applications settled upon and order in this case granted.

1319. Complaint of McLennan & Company, Lindsay, Ontario, respecting freight rates charged by the Grand Trunk Railway on hard coal from Black Rock and Suspension Bridge, New York, to Lindsay, Ontario, as compared with the company's rates to Combray, Cobocok, Peterborough, Lakefield, Port Hope and Belleville, Ontario. (Application 7533.)

Order made directing the Grand Trunk Railway Company to reduce its rate on coal in carloads from Suspension Bridge, Bridge Rock and Buffalo, to Lindsay, Ontario, to \$1.15 per ton, 2,000 pounds, subject to a compliance with the provisions of subsection 5 of section 315, Railway Act.

1320. Complaint of the Dominion Concrete Company, Limited, Kemptville, Ontario, respecting alleged failure of the Canadian Pacific Railway to refund money paid to the railway on account of private siding built to the applicant's industry. (Application 8758.)

Application dismissed.

1321. Complaint *re* Brockville train connection on Canadian Pacific and Grand Trunk Railway companies' lines.

Note.—This complaint is set down for the purpose of considering the terms of proposed Order. (Application 5320. Case 2863.)

Stands pending the settlement of terms of proposed Order of Board.

1322. Complaint of J. L. Sundabe, of Hitchcock, Sask., that the Canadian Pacific Railway Company has refused to put in a crossing over the road allowance in section 22, township 3, range 9, west of the 2nd meridian. (Application 9127.)

No action taken as complainant states company have put in the crossing.

1323. Petition of settlers along the Pheasant Hills Branch of the Canadian Pacific Railway for a siding on or near N. E. $\frac{1}{4}$ section 22, tp. 17, range 32, west of the 1st meridian, between Rocanville and Tantallon, Sask. (Application 7047.)

Application dismissed.

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1324. Petition of the farmers and grain growers in Saskatoon county, Saskatchewan, for loading platform at a siding on section 8-36-6, W. 3rd, of the Goose Lake Branch, about nine miles southeast of Saskatoon. (Application 8404.)

Application dismissed.

1325. Application of the Board of Trade, of Heward, Sask., under section 237 of the Railway Act, for leave to construct a highway crossing over the Canadian Pacific Railway in the village of Heward, Sask. (Application 8092.)

Application granted, order made.

1326. Application of the Saskatchewan Local Improvement Association, of Grenfell, Sask., that the railway companies in the province of Saskatchewan be compelled to either fence their tracks or pay compensation in full for all damage done to stock by trains, and shall pay for all damage done to cultivated crops, hay, barns, &c., caused by their engines setting out fires. (Application 7434.)

Stands for judgment.

1327. Complaint of W. R. Jamieson, of Lumsden, Sask., of failure of the Canadian Northern Railway Company to fence its right of way. (Application 8765.)

Order made directing railway company to properly fence its right of way through complainant's lands by 15th May, 1909.

1328. Complaint of W. O. Miller, *et al*, of Tessier, Sask., that they are unable to secure settlement from the Canadian Northern Railway Company for property taken for railway purposes situated in township 33, range 10, section 16, west of the 3rd meridian. (Application 9083.)

Application dismissed.

1329. Petition of W. H. Lawrence and other merchants and farmers of Aberdeen, Sask., for an Order directing that a crossing be built over the Canadian Northern Railway in the townsite of Aberdeen at Fifth avenue. (Application 8463.)

Order made for crossing in a line with Eight avenue extending south to south side of right of way of railway company to grade and construct a roadway along the side of right of way to point opposite railway depot.

1330. Complaint of Charles Mann, of Lumsden, Sask., of failure of the Canadian Northern Railway Company to properly fence its right of way where it affects the northeast quarter section 21, township 19, range 21, west of the second meridian. (Application 8809.)

Order made for railway company to fence both sides of right of way on or before May 15, 1909.

1331. Application of Charles Mann, of Lumsden, Sask., under section 252 of the Railway Act, for an order directing the Canadian Northern Railway Company to provide and construct a suitable farm crossing where the company's railway intersects his farm on lot southeast quarter section 31, township 19, range 21, Lumsden, Sask. (Application 8809. Case 4213.)

Order made for farm crossing work to be finished before July 1, 1909.

1332. Petition of the residents of Maryfield, Sask., requesting that the Canadian Pacific Railway Company and the Canadian Northern Railway Company erect and provide a union station at Maryfield, Sask. (Application 7813.)

Order made on consent for union station and joint facilities at Maryfield. Terms to be agreed upon by companies before May 1, 1909, and if not Board will settle on application of any interested party.

1333. Application of the citizens and residents of the district of Zelma, Saskatchewan, for an order directing that the Grand Trunk Pacific Railway continue the operation of its line of railway in that district for the transportation of freight and passenger service; that the railway at once build and put in shape a crossing over its tracks opposite the main street in the new townsite known as Zelma, and erect and maintain a station house with necessary freight room accommodation. (Application 9294.)

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Order made directing railway company to construct suitable and temporary crossing by 28th February, 1909, at Zelma near west side of Main street. Balance of petition dismissed.

1334. Application of the city of Saskatoon, Sask., for an Order directing the Canadian Northern Railway to erect, operate and maintain gates at the Spadina Crescent and Twenty-third streets, Saskatoon, Sask. (Application 8993. Case 4285.)

Order made for the gates at Twenty-third street to be erected by company, one-half of cost of maintenance borne by each, guard rail at Spadina Crescent to be put in by May 1, 1909.

1335. Application of the Board of Trade of Dundurn, Sask., under the Railway Act, for an Order directing the Canadian Northern Railway Company to provide crossings over their tracks through the yard at Dundurn, Sask. (Application 8965. Case 4261.)

Order made in accordance with agreement at hearing.

1336. Application of the Canadian Northern Railway Company, under section 45, for an Order setting aside order of the Board dated 29th day of November, 1907, authorizing the village of Dundurn to construct a highway over the track of the Canadian Northern Railway Company. (Application 5272. Case 1882.)

Order made in accordance with agreement at hearing.

1337. Petition of Dundurn Board of Trade, and of residents of Dundurn, Saskatchewan, that the Canadian Northern Railway be required to provide additional siding accommodation for the handling of freight traffic at that point. (Application 6919.)

Order made in accordance with agreement reached at hearing.

1338. Application of the Canadian Northern Railway Company, under section 227 of the Railway Act, for authority to connect the tracks of its Brandon-Regina branch with the tracks of the Canadian Pacific Railway Company (Arcola branch) at a point on northwest quarter section 20, township 17, range 10, west of the 2nd meridian. (Application 6003. Case 2542.)

Order made on consent. Engineer to inspect the plans.

1339. Application of the Canadian Pacific Railway Company, under section 222 of the Railway Act, for authority to construct, maintain and operate a branch line of railway in the city of Regina, from a point on the northerly boundary of the station grounds of the railway company between Broad and Rose streets, thence in a northerly direction across Dewdney street and Eighth avenue, along lane running parallel to and between Board street and Rose street to the southerly limit of Seventh avenue, a distance of about 1,500 feet, together with five other branch lines of railway or spurs commencing from the first mentioned spur. (Application 6648. Case 2809.)

Application dismissed.

1340. Application of the Canadian Pacific Railway Company, under section 237 of the Railway Act, for authority to lay its tracks across highways on Hudson's Bay Mining Company's spur at Bienfait, Sask. (Application 4545. Case 2799.)

No order made.

1341. Application of the city of Regina, Sask., under sections 237 and 238 of the Railway Act, for an order directing the Canadian Pacific Railway Company to provide and maintain a suitable subway where the company's railway intersects Broad street in the city of Regina, Sask. (Application 8747. Case 4112.)

Application dismissed.

1342. Application of the city of Regina, Sask., for an Order authorizing a change in the location of Hamilton street, where it crosses the tracks of the Canadian Pacific Railway Company to the station grounds, Regina, Sask. (Application 999.)

Application dismissed.

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1343. Application of the city of Regina, for an Order under sections 237 and 238, directing construction of subway at Albert street, Regina, by the Canadian Pacific Railway. (Application 8748. Case 4113.)

Application granted. Order issued.

1344. Application of the Board of Trade of Regina, Sask., that the Canadian Pacific Railway Company and the Canadian Northern Railway Company provide and construct a union station in the city of Regina, Sask. (Application 5166.)

Application refused.

1345. Application of the Canadian Pacific Railway Company for an Order, under section 29, varying order of the Board dated 4th July, 1907 (No. 3245), so as to provide that the fireguards to be constructed in the provinces of Alberta and Saskatchewan under clauses No. 8 and No. 9 of the said Order, be constructed as follows:—

That two strips of land not less than eight feet in width be ploughed on each side of the railway at a distance of not less than 300 feet from the centre line of the railway, and that a clear space of 20 feet be maintained between the said strips, which space shall be burned over and afterwards kept free of flammable material.

The company further applies, pursuant to the provisions of paragraph 11 of the said Order, for a direction that it shall not be required to establish and maintain such fireguards on such portions of its lines of railway in the provinces of Alberta and Saskatchewan where the nature of the country renders it impossible or impracticable to do so, or where the doing so would involve serious loss and damage to property. All such space and portions of land being shown on the plans submitted. (Application 4741. Case 1859.)

NOTE.—This application has also been set down for hearing at Edmonton, Alberta, on 19th February, 1909.

Stands for further consideration and evidence.

1346. Complaint of J. R. Standen and other residents of Osage, Saskatchewan, alleging that the Canadian Pacific Railway propose closing its station at that point, and asking that the railway company be required to continue to maintain its station at that point. (Application 9204.)

Complaint withdrawn.

1347. Complaint of Rosaleigh school district, No. 820, of Frobisher, Saskatchewan, of failure of Canadian Pacific Railway to provide station agent or operator at Hirsch, Saskatchewan. (Application 9268.)

Application dismissed.

1348. Complaint of the Elstow Board of Trade, Elstow, Saskatchewan, alleging delay on the part of the railway companies in the transportation and delivery of coal shipments at Elstow, Saskatchewan. (Application 8637.)

Application dismissed.

1349. Complaint of Ben Yake, of Moosejaw, Saskatchewan, alleging overcharge on shipment of settlers' effects from Mount Forest to Moosejaw, Saskatchewan. (Application 9137.)

Order made permitting Canadian Pacific Railway Company to make refund of overcharge admitted.

1350. Complaint of the Board of Trade of Strasburg, Saskatchewan, respecting freight rates charged by the Canadian Pacific Railway Company on lumber shipments to Strasburg, Saskatchewan. (Application 2671.)

Complaint withdrawn.

1351. Application of the Board of Trade of Guernsey, Saskatchewan, for an Order directing the Canadian Pacific Railway Company to give to Guernsey a lower rate on grain to the terminal elevators at Fort William than at present furnished. (Application 8525.)

Application dismissed.

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1352. Application of the Board of Trade of Alameda, Saskatchewan, alleging excessive freight rates charged by the Canadian Pacific Railway Company on coal to that point. (Application 9209. Case 4408.)

Order made that railway company substitute for its present rates on coal, in carloads, from Bienfait, Saskatchewan, to the points named, the rates per ton of 2,000 lbs. as follows:—

<i>From Bienfait to</i>	<i>Rates.</i>
Hirsch, Sask.	\$ 0 50
Frobisher, Sask.	0 50
Alameda, Sask.	0 70
Oxbow, Sask.	0 75
Glen Ewen, Sask.	0 80
Carnduff, Sask.	0 85
Carievale, Sask.	0 85
Gainsborough, Sask.	0 90
Pierson, Man.	0 90
Elva, Man.	0 95
Melita, Man.	0 95
Napinka, Man.	1 00
Lauder, Man.	1 05

Also Ordered that rates from other stations or collieries contiguous to Bienfait, and to all other stations where dislocation of customary basess may ensue from the changes ordered, be graduated proportionately to those from Bienfait and to the points of consumption herein designated. Also Ordered that application for reduction in the minimum weight of twenty tons per car be dismissed.

1353. Complaint of W. B. Bashford, of Rosthern, Saskatchewan, alleging excessive freight rates of the Canadian Northern Railway on coal from Taber, Alberta, to Dalmeny, Saskatchewan. (Application 7740.)

Order made requiring Canadian Northern Railway and Canadian Pacific Railway to file a joint tariff on coal from Taber to Dalmeny at the same rate as from Taber to Rosthern.

1354. Complaint of the Saskatchewan Grain Growers' Association of Indian Head, Saskatchewan, alleging excessive freight rates on lumber and coal shipments. (Application 4463.)

Application dismissed.

1355. Complaint of the Eureka Coal and Brick Company of Estevan, Saskatchewan against discrimination by the Canadian Pacific Railway Company, in freight rates and switching charges on their products in favour of Pinto, Roche Percee and Bienfait, Saskatchewan. (Application 7037.)

Stands for judgment.

1356. Complaint of Stockton & Mallinson, wholesale fruit and produce merchants of Regina, Saskatchewan, alleging that the rate charged by the Canadian Pacific Railway Company on shipments of oranges from points in the State of California, in the United States of America, to Regina, is unreasonable, as compared with the rate charged from the said points in California to points in the provinces of Manitoba and Ontario. (Application 6622.)

Order made directing the Canadian Pacific Railway Company to arrange with its connections for publication of new tariff from California shipping points to Regina via King's Gate or Emerson on basis of \$1.60 per 100 pounds from Los Angeles points, on oranges in straight carloads; or on mixed carloads of oranges and lemons \$1.45 per 100 pounds upon lemons in straight carloads.

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1357. Complaint of Rosthern Board of Trade, of Regina, Saskatchewan, respecting alleged excessive rates on the Canadian Northern Express Company and Dominion Express Company's lines. (Application 4703.)

Judgment reserved pending disposition of general question of express rates.

1358. Complaint of the Board of Trade of Saskatoon, Saskatchewan, alleging excessive express charges on the express companies' lines from Winnipeg to Saskatoon. (Application 4796.)

Judgment reserved, as above.

1359. Complaint of J. M. Grover, Rosthern, Saskatchewan, respecting alleged express charges made by Dominion Express Company on box shipped from Birnie, Manitoba. (Application 7756.)

Settled by Canadian Northern Express Company undertaking to remit \$3.70 excess charges.

1360. Application of the town of Indian Head, under section 250 of the Railway Act, for authority to construct and maintain a ten inch water pipe across the property and under the tracks of the Canadian Pacific Railway Company in the town of Indian Head, Saskatchewan. (Application 2510.)

Application granted. Order issued.

1361. Petition of Wm. Hoskin, Jas. Butler and others that the Canadian Pacific Railway Company be required to provide a crossing near the company's yard at Twentieth street, Saskatoon, Saskatchewan. (Application 2632.)

Application dismissed. Settled between the parties.

1362. Complaint of L. F. Dosse of Denholm, Saskatchewan, that the Canadian Northern Railway have failed to provide proper station accommodation at that point in accordance with Order of the Board No. 5021, dated July 7, 1908. (Application 6686.)

Order made directing railway company to maintain station at Denholm on location to be approved by Board, to be constructed and equipped by November 1, 1907.

1363. Complaint of Chester L. Mintminick of Churchbridge, Saskatchewan, that the Grand Trunk Pacific Railway has taken seventeen and a third acres of his property at Churchbridge, Saskatchewan, but have failed to pay for the same. (Application 3398.)

Application dismissed. Settled between parties.

1364. Complaint of Local Improvement District 21-J-3, through David Mitchell of Maymont, Saskatchewan, that the Canadian Northern Railway has not put in all crossings in that municipality. (Application 3230.)

Order made directing railway company to provide crossings at points set out in Order and to widen certain other crossings. Work to be done by June 23, 1909. Crossings to be in accordance with Board's general regulations.

1365. Complaint of the Board of Trade of Prince Albert, Saskatchewan, alleging excessive express rates on parcels to and from Prince Albert, Saskatchewan. (Application 5795.)

Application withdrawn.

1366. Petition of the residents of Rush Lake, Saskatchewan, that the Canadian Pacific Railway Company be required to construct a highway across its tracks at Rush Lake Yard. (Application 6997. Case 3028.)

Order made for road allowance to be opened and crossing put in by company.

1367. Complaint of Macdonald & Co., of Fort Qu'Appelle, Saskatchewan, regarding express rates, delays in delivery, &c.

Application dismissed.

1368. Complaints of the Board of Trade of Saskatoon and others commercially associated with Saskatoon, regarding express companies.

Judgment reserved pending disposition of general question of express rates.

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1369. Complaint of the Nelson Ford Lumber Company, Limited, and the International Elevator Company, Limited, of Estevan, Saskatchewan, regarding the service furnished to them by the Canadian Pacific Railway Company over a spur commercial track built across blocks 7 and 11 in the townsite of Estevan. (Application 9348.)

Order made that, upon payment by the parties liable of all arrears of rental for the spur and upon signing of siding agreement, the railway company to remove westerly connection and establish easterly connection.

1370. Complaint of Local Improvement District 18 B-3, Saskatchewan, that the railway companies have not left the road crossings in proper state for safe crossing for vehicles, &c. (Application 9144.)

Order made directing the railway company to make the crossing in question conform to the requirements of the general regulations of the Board affecting highway crossings dated January 26, 1909.

1371. Complaint of Local Improvement District 17-M-2, Saskatchewan, regarding the failure of the Canadian Northern Railway Company to plank two crossings referred to in the complaint. (Application 8016.)

Order made directing Canadian Northern Railway Company to plank crossings by June 15, 1909, and to build fence. Question of further protection reserved.

1372. Complaint of the Golden Lion Brewing Company, Limited, Prince Albert, Saskatchewan, against the Canadian Northern Railway Company, as to the unsatisfactory state of affairs in connection with the shipping of perishable goods from that city during the winter months. (Application 9354.)

Stands for judgment. General Manager Canadian Northern Railway states that heated cars will be restored in another week.

1373. Application of Hugh Miller for an Order, requiring the Canadian Northern Railway Company to fence its right of way through the N.W. $\frac{1}{4}$, 26-19-22, W. 2nd meridian.

Order made requiring company to fence both sides of right of way on or before May 15, 1909.

1374. Petition of residents of the district of Condie, Saskatchewan, for an Order that the Canadian Northern Railway Company erect a station and freight shed at Condie, Saskatchewan. (Application 9606. Case 4663.)

Order made that the Canadian Northern Railway Company on or before June 1, 1909, erect and maintain a suitable and proper station of the third class at Condie and place an agent in charge.

1375. Application of the city of Medicine Hat, Alberta, for an Order, under section 187 of the Railway Act, that the portion of the land opposite the intersection of Main street with the right of way of the Canadian Pacific Railway Company in the city of Medicine Hat is a public highway and a portion of Main street (so-called) and for other purposes. (Application 3321. Case 10.)

Order made declaring present crossing a highway and authorizing railway company to open, and dedicate.

1376. Application of the city of Medicine Hat, Alberta, under section 237 of the Railway Act, for an Order authorizing the construction of a highway crossing over the Canadian Pacific Railway Company's Railway at River street, in the said city of Medicine Hat, or for the construction of a subway at the said crossing of River street aforesaid. (Application 5917. Case 2490.)

Order made for highway to be constructed at River street.

1377. Application of the city of Medicine Hat, Alberta, under section 237 of the Railway Act, for an Order authorizing the construction of a pedestrian subway from the intersection of Toronto street with North Railway street under the right of way of the Canadian Pacific Railway Company to the intersection of Toronto street with South Railway street, Medicine Hat, Alberta. (Application 5915. Case 2488.)

Order made granting leave to city to construct subway at Toronto street at its own expense. Plans to be prepared by city and submitted to railway company.

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1378. Application of the city of Medicine Hat, Alberta, for an Order, under section 237 of the Railway Act, authorizing the construction of an overhead bridge from Ottawa street on the south side of the right of way of the Canadian Pacific Railway Company to Ottawa street on the north side of the said right of way. (Application 5916. Case 2489.)

Application dismissed.

1379. Consideration by the Board of the question of better protection at the crossing of the Grand Trunk Railway Company's railway over Depot street in the village of Grimsby, Ontario. (Application 9374.)

Order made that Depot street crossing be protected by gates to be provided and watched by and at the expense of Grand Trunk Railway Company on or before 1st May, 1909, gates to be in charge of a day and night watchman. Wages of watchmen and maintenance of gates to be borne, 80 per cent by Grand Trunk Railway Company, 10 per cent by village of Grimsby, 10 per cent by township of North Grimsby. Pending the installation of gates, Grand Trunk Railway Company to keep a day and a night watchmen at crossing at its own expense.

1380. Application of the Canadian Pacific Railway Company under section 178, for authority to take additional lands adjoining its Place Viger yards, in the city of Montreal, province of Quebec, as shown on plan filed with the Board. (Application 9350. Case 4491.)

Order made granting application.

1381. Application of the Canadian Pacific Railway Company under section 178 of the Railway Act, for authority to take additional lands at Windsor street yard, Montreal, province of Quebec. (Application 9332. Case 4467.)

Order made granting application.

1382. Application of the municipality of Didsbury, under section 237 of the Railway Act, for leave to construct and maintain a highway crossing across tracks and right of way of the Calgary and Edmonton Railway Company, within the town of Didsbury, as a continuation of Hespeler street, within the same town, eastwardly, where such continuation would cross the right of way of the railway. (Application 8933. Case 4235.)

Order made granting leave to Didsbury to open up at its own expense a highway crossing in the line of Hespeler street, extended existing crossing at Waterloo street to remain.

1383. Application of Robert Lake, under section 250, for authority to cross tracks of the Canadian Pacific Railway with water pipe at road allowance N.E. $\frac{1}{4}$ section 34, township 7, range 4, west 5th meridian, township of Blairmore. (Application 8131. Case 3697.)

Application granted. Order issued.

1384. Application of the city of Calgary, under section 250, for authority to lay an 8-inch water main under tracks and station grounds crossing at 13th street east, Calgary, Alta. (Application 5542.)

Application granted. Order issued.

1385. Application of the city of Calgary, under section 250, for authority to lay a 12-inch water main under tracks of the Canadian Pacific Railway, at First street west, Calgary, Alta. (Application 5435. Case 2046.)

Application granted. Order issued.

1386. Application of the city of Calgary, under section 250, for authority to lay a 12-inch water main under the tracks of the Canadian Pacific Railway at 4th street west, Calgary, Alta. (Application 5436. Case 2047.)

Application granted. Order issued.

1387. Application of the city of Calgary, under section 250, for authority to lay a 10-inch water main under tracks at 11th street west (Canadian Pacific Railway), Calgary, Alta. (Application 5438.)

Application granted. Order issued.

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1388. Application of the city of Calgary, under section 250, for authority to lay sewer pipes under tracks of the Canadian Pacific Railway at 5th street west, Calgary, Alta. (Application 5439.)

Application granted. Order issued.

1389. Application of the city of Calgary, under section 250, for authority to lay a 16-inch water main under tracks of the Canadian Pacific Railway at 8th street west, city of Calgary, Alta. (Application 5437.)

Application granted. Order issued.

1390. Application of the city of Calgary for an order, under section 237 of the Railway Act, for an agreement between the city of Calgary and the Canadian Pacific Railway, dated 13th December, 1906, and an order of the Board bearing same date, with respect to subway at Osler street and First street east, Calgary, under the tracks of the Canadian Pacific Railway. (Application 4659. Case 1366.)

Application dismissed.

1391. Complaint of Thomas Fitzgerald, of Crossfield, Alberta, that the train employees of the Canadian Pacific Railway Company in that district are employed an excessive length of time on continuous duty. (Application 9272.)

Application dismissed.

1392. Complaint of J. McLoughlin, High River, Alta., alleging excessive freight rates charged on Canadian Pacific Railway from Pincher Creek to Spokane, Washington. (Application 9194.)

Stands for further consideration.

1393. Complaint of Charles Knight, Calgary, Alberta, against the Canadian Pacific Railway, as follows:—

(1) Alleged discrimination in live stock rates from Strathmore to Hochelaga; also from

(2) Calgary, Gleichen, Cowley, Lacombe, Okotoks, Lethbridge, Cardson, Carstairs, Airdrie and other points in Alberta to Hochelaga, Toronto and Winnipeg.

(3) Alleged discrimination between the complainant and P. Burns & Company from various other stations in Alberta to various other stations on the company's lines, shipped under substantially similar circumstances and conditions. (Application 3730.)

Application dismissed.

1394. Complaint of Linton & Hall, Calgary, alleging excessive express charges by Dominion Express Company from Worcester, Massachusetts, to Calgary. (Application 6523.)

Reserved pending disposition of general question of express rates.

1395. Complaint of Brice H. Bunny, of Crawling Valley, Gleichen, Alberta, respecting rates and freight charges of the Canadian Pacific Railway on a registered Percheron stallion from Minnesota Transfer to Gleichen, Alberta, shipped in May, 1907.

Stands for consideration.

1396. Application of the city of Calgary, Alberta, under section 237 of the Railway Act, for authority to cross the spur of the Canadian Pacific Railway on Second street, east, with the tracks of the Calgary Street Railway, Calgary, Alberta. (Application 9306. Case 4463.)

Application granted. Order issued.

1397. Application of the city of Calgary, under section 228 of the Railway Act, for an order authorizing the making and construction of a crossing of the Canadian Pacific Railway Company's spur track on Second street east, Calgary, by the street railway about to be constructed in that city. (File 9349. Case 4490.)

Application granted. Order issued.

1398. Application of the Western Canada Pressed Brick and Tile Company, Limited, and the Pugh & Livingstone Lumber Company, Limited, for an order, under

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section 226 of the Railway Act, directing the Canadian Pacific Railway Company to grant and construct a siding on the north side of its main line immediately west of Okotoks, Alta., and for the grant and construction of a spur from the said siding of the kilns of the Western Canada Pressed Brick and Tile Company, Limited.

Application granted. Order issued.

1399. Application of the Okotoks Milling Company, Limited, for an order under section 226 of the Railway Act directing the Canadian Pacific Railway Company to grant and construct a spur from the main line of the Canadian Pacific Railway on the north side thereof from a point on the said main line in the yards of the said railway company at Okotoks, east of the mill building of the applicant company, to a point immediately in front of and south of the mill belonging to the applicant company at Okotoks.

Application granted. Order issued.

1400. Complaints of the Calgary Board of Trade regarding telegraph rates.

Withdrawn.

1401. Complaints of the Calgary Board of Trade regarding discrimination against Calgary in the present local express tariff; also a complaint regarding local freight shipments.

Reserved pending disposition of general question of express rates.

1402. Complaint of C. R. Dixon, president C. R. Dixon & Company, Limited, regarding slow freight service on perishable produce to British Columbia points.

Withdrawn.

1403. Application of the town of Vegreville, Alberta, under section 237 of the Railway Act, for Order granting leave to the municipality to construct and maintain a suitable highway crossing over the tracks of the Canadian Northern Railway at Main street in the town of Vegreville, Alberta. (Application 7748. Case 3482.)

Application withdrawn.

1404. Complaint of William Robinson, of Hurry, Alberta, that the Grand Trunk Pacific Railway has constructed its right of way across his homestead, severing six to ten acres, and made deep cut through his property, and have thrown waste material over his land, beyond its right of way. (Application 8667.)

Settled. Railway company agreeing to pay \$75 damages.

1405. Complaint of the Alberta Farmers' Association respecting the condition of the bridge of the Edmonton, Yukon and Pacific Railway (Canadian Northern Railway), approved by Order of the Board No. 5691, dated November 24, 1908. (Application 8522. Case 3982.)

Application refused. No jurisdiction.

1406. Complaint of A. Landals, of Strathcona, Alberta, that the Canadian Pacific Railway has constructed a wagon road across his property, cutting his place in three parts and shutting him off from the water. (Application 8680.)

Application dismissed.

1407. Application of Sidney Ottewell, Clover Bar, Alta., for permission to allow his cattle to run under the bridge of the Grand Trunk Pacific Railway at S.W. 13-53-23, west of 4th meridian, as an under farm crossing. (Application 5722.)

Application withdrawn.

1408. Complaint of the Chairman of the Local Improvement District 27 S 4, Alberta, against the plan of the proposed subway of the Grand Trunk Pacific Railway at high crossing on the northeast quarter of section 15, township 53, range 24, west of the 4th meridian. (Application 9023.)

Order made directing subway to be constructed.

1409. Complaint of the Parkdale Coal Company, of Edmonton, Alberta, against the Grand Trunk Pacific Railway being permitted to continue their right of way through portion of river lot No. 22, Edmonton settlement survey, belonging to the Parkdale Coal Company. (Application 2236. Case 3857.)

Application dismissed.

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1410. Application of the city of Edmonton, Alberta, respecting street crossings of the Edmonton, Yukon and Pacific Railway (Canadian Northern Railway) in the city of Edmonton, Alberta. (Application 352.)

Application granted. Order issued.

1411. Application of the Canadian Northern Railway Company, under section 175 of the Railway Act, for authority to construct a spur from its main line to Cushing's mill and lumber yard, Edmonton, Alta. (Application 4061. Case 729.)

Application withdrawn.

1412. Application of McDougal & Secord, Edmonton, Alberta, under sections 26, 30 and 158 of the Railway Act, for an Order declaring plan, profile and book of reference of Canadian Pacific Railway, deposited in land office, North Alberta, not to be in accordance with provision of the Railway Act so far as same affects property of the Hudson Bay Company reserve in the city of Edmonton, Alberta. (Application 1418. Case 4449.)

Order made varying former Order by cancelling location through three lots covered by second branch of the application. See reasons for judgment in Appendix D.

1413. Application of the Canadian Pacific Railway Company, under section 29 of the Railway Act, for an Order amending the Order of the Board No. 5608, made by the Board on the application of the city of Edmonton and the Strathcona Radial Tramway Company, Limited, and dated the 3rd day of November, 1908, by altering the terms upon which the said Order was made, and providing that the said city of Edmonton and the Strathcona Radial Tramway Company, Limited, shall install a half-interlocking plant at the crossing at White avenue in the city of Strathcona, with necessary derail switches on the tracks of the said Electric Railway Company, and semaphores upon the line of the Applicant company. (Application 8464. Case 4371.)

Application refused. Canadian Pacific Railway Company directed to discontinue the practice of backing its southbound train No. 224 over the said crossing.

1414. Application of the Canadian Pacific Railway Company, under sections 158 and 159 of the Railway Act, for approval and sanction of location of portion of branch line of railway from Peace avenue to Sixteenth street, Edmonton, Alberta. (Application 1418. Case 911.)

Application granted. Order issued.

1415. Application of the Grand Trunk Pacific Railway Company, under section 159, for location, east line, section 17, township 53, range 23, west 4th meridian, through Edmonton to a line between ranges 24, 25, west 4th meridian. This matter is set down for the purpose of considering the complaint of Edwards & Madore, barristers, Edmonton, Alta., respecting filing and registration by the railway company of the plans in connection with order of the Board No. 3463, dated August 15, 1907. (Application 2236. Case 1180.)

Order made refusing to rescind Order for leave to construct but limiting right of way to 100 feet where it affects the applicant's lands.

1416. Complaint of Henry Harvey, Strathcona, Alta., alleging loss sustained on certain goods shipped from Edmonton to a flag station on the line of the Canadian Northern Railway, near Bruderheim, Alta., and makes application that station agent be appointed. (Application 9098.)

Application dismissed.

1417. Complaint of J. J. Denman and other coal dealers of Edmonton, Alberta, of unjust treatment accorded by the Canadian Northern and Canadian Pacific Railway companies in compelling them to furnish doors or boards for the interior of the doorway of cars supplied to them for coal shipment.

Order made that where shippers upon all or any railways subject to the jurisdiction of the parliament of Canada, are compelled to furnish car doors to enable cars to

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be used for traffic, allowance be made upon the following basis: (1) Lower car door, one dollar; (2) upper car door, fifty cents; and adjustment upon the above basis shall be made by the agent at or nearest to the point of shipment by (a) at the time of shipment, payment to the shipper of the account out of funds of the railway company of which he is agent in his hands; or (b) the shipper may deduct from the freight charges, if any, payable by him upon the shipment in such car, for which the said door or doors were so supplied, the amount of such bill upon the foregoing basis, receipting the same, and turning the account in to the agent as so much cash.

1418. Complaint of the Central Alberta Stock Growers' Association, alleging unreasonable delay on the part of the Canadian Pacific Railway Company in regard to transportation of live stock, and discrimination in the matter of personal transportation. (Application 7297.)

Adjourned at request of Mr. Stevens to next sittings at Edmonton.

1419. Complaint of the Live Stock Commissioner of Edmonton, and shippers of live stock, that where they are unable to secure stock cars for the movement of stock, box cars are supplied and planking has to be placed across the doorways, which the companies' agents refuse to supply and which entails an expense to the shippers of \$2 per car for planking. (Application 9270.)

Order made that where shippers have Ordered stock cars for the shipment of live stock and are supplied with box cars and are obliged to furnish lumber for temporary doors thereof, the shipper may deduct and retain one dollar and twenty-five cents from the freight charges, if any, payable by him upon the shipment in each such car, for which the said lumber is so furnished, receipting the same and turning the account in to the agent as so much cash; or he may render to the agent of the company at or nearest to the point of shipment, an account for the actual outlay for the said lumber, which account the said agent shall pay at the time of shipment, out of the funds of the company in his hands.

1420. Resolution of members of East Clover Bar Branch of the Alberta Farmers' Association, that railways should be compelled to provide moveable partitions in their cars in order to enable individual farmers to make small shipments of cattle or hogs, thus preserving the identity of the individual consignment. (Application 9288.)

Application refused.

1421. Complaint of J. Gainer & Co., of Strathcona, Alberta, alleging excessive freight rates charged by the Canadian Pacific Railway on live stock from Wetaskiwin, Alberta, to Winnipeg, Manitoba. (Application 7824.)

Application refused.

1422. Complaint of H. A. Glaspell, alleging delay in delivery of express parcels by the Dominion Express Company at Vegreville, Alberta. (Application 4273. Case 931.)

Application dismissed.

1423. Complaint of Dr. C. N. Corbett, Edmonton, Alberta, alleging excessive express charges by express companies in the west. (Application 8973.)

Application dismissed.

1424. Complaint of Cyril Hind, of Mannville, Alberta, alleging excessive freight rates charged by the Canadian Pacific Railway Company on a horse shipped from St. John to Strathcona, Alberta.

(Note.) Complainant alleges that refund promised by the Railway Company has not been made. (Application 5114.)

Application dismissed, applicant having settled.

1425. Application of the city of Edmonton for an Order declaring that the plan profile and book of reference of the Canadian Pacific Railway Company location through Edmonton is not in accordance with the Railway Act, and that the same be cancelled and annulled. (File 1418. Case 4501.)

Application dismissed.

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1426. Application of the city of Edmonton for an Order under section 237 of the Railway Act for leave to construct highways across the railways of the Canadian Northern Railway Company within the limits of the said city for the purpose of extending Ninth and Sixteenth streets south of the railway and connecting with Ninth and Sixteenth streets north of the said railway.

Order made granting leave to city to open up Sixteenth street acrosss the railway lands at its own expense. Railway not to receive consideration for the lands taken.

1427. Complaint of J. C. Haddock that the Grand Trunk Pacific Railway Company took possession of his lands on the E. $\frac{1}{2}$ of section 8, township 53, range 4, west of 5th meridian, without full settlement. (File 792.)

Application dismissed, on statement of company's solicitor that matter is settled.

1428. Complaint of Peter Reid that the Canadian Pacific Railway Company has removed gates and cut the posts and wires where the railway affects his property, causing loss through cattle getting on the right of way and being killed. (File 3215.)

Application dismissed.

1429. Complaint of United Farmers of Alberta that railway companies have not fenced their right of ways; that grain cars are not provided with proper grain doors; that freight rates are excessive; that serious losses are sustained by reason of stock cars not being promptly spotted for unloading and by reason of unreasonable delay in transferring stock cars from one company's line to another; and that, in districts where new railway lines are being built, the farmers are compelled to sustain heavy losses because the companies do not fence or protect their right of ways while the work is being done thereon. (File 9414.)

Application dismissed.

1430. Application of owners of subdivision in the northern part of Edmonton, known as Beachmont, to have the remainder of Beachmont freed from the filing of the plan of the Grand Trunk Pacific Railway location through Edmonton, and that the railway company, at its own expense, withdraw the plan so far as concerns the Beachmont subdivision. (Application 5401. Case 2011.)

Order made cancelling registration in excess of 100 feet as located. Consent Order issued.

1431. Application of Mary Charlotte Sinclair for an Order cancelling the plans of the Canadian Pacific Railway Company, so far as they relate to lots 71 to 76, block 9, H.B.R., plan ',' Edmonton. (Application 1418.)

Judgment reserved. Matter subsequently settled between the parties.

1432. Application of J. C. Dumont for an Order directing the Grand Trunk Pacific Railway Company to treat with the applicant in respect of the damages sustained by him by the construction of the company's line upon Twenty-first street, Edmonton, or for an Order that the company's plan be cancelled and annulled as to the Twenty-first street location.

Referred to the Board's engineer to report if the property is damaged by reason of the exercising of the powers of the railway company.

1433. Application of J. G. Campbell for an Order directing the Grand Trunk Pacific Railway Company to treat with the applicant in respect of the damages sustained by him by the construction of the company's line from Twenty-first street, Edmonton, or for an Order that the company's plan be cancelled and annulled as to said Twenty-first street location.

Referred to the Board's engineer to report if the property is damaged by reason of the exercising of the powers of the railway company.

1434. Application of S. F. Mayer and Isaac Picard for an Order directing the Grand Trunk Pacific Railway Company to treat with the applicants in respect of the damages sustained by them by the construction of the companys' line upon Twenty-first street, Edmonton, or for an Order that the company's plan be cancelled and annulled as to the Twenty-first street location.

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Referred to the Board's engineer to report if the property is damaged by reason of the exercising of the powers of the railway company.

1435. Application of Wm. Johnston for an Order directing the Grand Trunk Pacific Railway Company to treat with the applicant in respect of the damages sustained by him by the construction of the company's line on the street adjoining the applicant's land on the east, or for an Order that the plan, so far as it affects the said street be cancelled.

Referred to the Board's engineer to report if the property is damaged by reason of the exercising of the powers of the railway company.

1436. Application of J. Gainer & Co., of Strathcona, Alta., for lower minimum weight on live stock in double-decked cars; also for an Order authorizing the Canadian Pacific Railway Company to rebate to the applicants excessive freight on two cars of live hogs shipped from Wetaskiwin and Strathcona respectively to Victoria, British Columbia.

Application dismissed.

1437. Application of the city of Edmonton, under section 227 of the Railway Act, for authority to cross the level with the lines of its electric street railway with the necessary poles and wires to transmit power, the lines of the Grand Trunk Pacific Railway Company and the lines of the Canadian Northern Railway Company at the intersection of the lines of said companies without the limits of the said city at what is known as Norton road.

Application withdrawn.

1438. Application of the city of Edmonton, under section 227 of the Railway Act, to cross at level with the lines of its electric street railway, with the necessary poles and wires to transmit power, the lines of the Grand Trunk Pacific Railway Company and the lines of the Canadian Northern Railway Company at the intersection of the lines of said companies at Syndicate avenue, at or near its intersection with Griesbach street. (Application 9419. Case 4525.)

Application granted. Order issued. Crossing to be protected by a half interlocker.

1439. Application of the city of Edmonton, under section 227 of the Railway Act, for authority to cross at level with the lines of its electric street railway, with the necessary poles and wires to transmit power, the lines of the Grand Trunk Pacific Railway Company and the lines of the Canadian Northern Railway Company, at the intersection of the lines of said company at Alberta avenue between Charles and Phillips streets.

Referred to the Board's engineer for report.

1440. Application of farmers of Clover Bar settlement, Alberta, for construction of subway under the tracks of the Grand Trunk Pacific Railway road allowance between sections 12 and 13, township 53-23 west of 4th M., between mileage 77.619 and 112.942.

NOTE.—The Board will hear the complaint of W. F. Stevens that the subway be constructed as provided by Order of the Board, No. 4179, is only twelve feet wide.

Order made for construction by company of temporary level crossing for farm implements. Company to have leave to remove under temporary crossing when permanent subway constructed with width of at least 20 feet.

1441. Complaint of Fullerton Lumber and Shingle Co., Ltd., Vancouver, British Columbia, alleging discrimination against forest products entering Edmonton, Alberta. (Application 9868.)

Order made directing Canadian Pacific Railway Company and Canadian Northern Railway Company to publish and file joint rates on classes 6 to 10 of the Canadian classification between Edmonton and all Canadian Pacific points except Strathcona via Strathcona Junction on the basis of one cent per 100 pounds over and above the rates of the Canadian Pacific Railway Company to or from Strathcona. The Cana-

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dian Northern Railway Company allowed an arbitrary proportional of \$10 per carload, regardless of weight, between Strathcona Junction and sidings in the city of Edmonton, including those owned by the Canadian Pacific Railway Company, but excepting the Griffin packing house, to or from which the Canadian Northern Railway Company does not exceed rates charged for local traffic between Strathcona and Edmonton.

1442. Application of the municipal corporation of the township of Sandwich East, under section 186 of the Railway Act of 1903, for Order directing the Grand Trunk Railway to provide, construct and maintain a suitable highway crossing where the railway company intersects the Lesperance road, in the village of Tecumseh.

NOTE.—This application is set down for the purpose of considering question of expense of automatic electric bell and cut-out called for in Order No. 5989, dated December 31, 1908. (Application 7086.)

Order made that cost of installing electric bell be borne by the township of Sandwich East, bell to be maintained at expense of railway company.

1443. Accident on the Canadian Pacific Railway at Adelaide street crossing, London, Ont., on March 31, 1908; this matter is set down for the consideration of the question of protection at crossing. (Application 7395.)

Board decided, after viewing the crossing, that no protection was needed at present.

1444. Accident on the Grand Trunk Railway at East London, Ontario, April 24, 1908, at Edgerton street crossing; this matter is set down for the purpose of considering the question of protection at this crossing. (Application 7758.)

Adjourned *sine die* at request of mayor of London.

1445. Complaint of C. T. W. Piper, Vancouver, B.C., respecting filling in by Grand Trunk Pacific Railway, between Watson Island and Townsite, where the applicant is constructing a saw-mill, shingle mill, pulp and paper factory, being part of the Grand Trunk Pacific Railway location, Prince Rupert easterly, mile 50 to 100, Copper river, approved by the Board's Order, dated April 9, 1908. (Application 3452. Case 3118.)

Order made that company leave an opening or undertake to compensate if solid embankment is constructed. Company to elect within one month.

1446. Application of the Brunette Saw-mill Company, New Westminster, B.C., for order changing plan location Vancouver, Westminster and Yukon Railway, across lots 1 and 2, suburban block 1, and lots 4, 5 and 7, suburban block 8, New Westminster, B.C. (Application 5745. Case 2353.)

Stands for parties to endeavour to arrange a settlement. Subsequently reports came to the Board that the matter was being arranged.

1447. Application of the municipality of Delta, B.C., under sections 26 and 235 of the Railway Act for an Order restraining Victoria, Vancouver and Eastern Railway from crossing or interfering with River road, so-called, on the south bank of the Fraser river, within the municipality of Delta, and for a mandatory Order directing the Victoria, Vancouver and Eastern Railway to restore the said portion of the River road to the condition it was in prior to June 30, 1908. (Application 6000. Case 4431.)

Order made that the various applications made to the Board in this matter be treated as an application by the railway company for leave to divert the highway in question, and to acquire the necessary lands for the relocation of the same, as shown on the plan filed. That authority be given to the railway company to divert the highway known as the Ladner highway, and to acquire the necessary lands for the relocation of the same along the route and through the lots as shown on the plan, upon the following conditions: (1) That the whole matter be referred to J. H. Senkler, K.C., as sole arbitrator to fix and determine the amount to be paid each and all land-owners. The arbitrator to have full power and authority to dispose of all ques-

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tions of costs. Also that the railway company, by June 3, 1909, do all work and furnish all material necessary to put the present Ladner highway as diverted in such condition as H. J. Cambie, C.E., shall by his report direct. Also that after the completion of the highway as provided for the company shall maintain the same for a period of three years from the date of completion. Such maintenance to be to the satisfaction of the said H. J. Cambie. If the municipality of Delta deem the highway to be out of repair they may call upon the said Mr. Cambie and the railway company to do forthwith the necessary work to carry out the Board's order. Also that all costs payable to the said H. J. Cambie shall be disposed of by the said J. H. Senkler, K.C.

1448. Complaint of J. A. Maddaugh, of Vancouver, B.C., that the Victoria, Westminster and Yukon Railway and the Canadian Pacific Railway have not connected their lines at Vancouver pursuant to order No. 3500, of the 7th of August, 1907. (Application 5734. Case 2342.)

Order made adding Victoria, Vancouver and Eastern Railway as parties and directing the connection to be made on or before 1st June, 1909.

1449. Complaint of J. A. Maddaugh, of Vancouver, B.C., respecting rates of the Victoria, Westminster and Yukon Railway Company, on lumber from British Columbia points to points in the province of Manitoba. (Application 9296.)

Order made that the Great Northern Railway Company forthwith file and publish rates on lumber, shingles and articles taking same rates via New Westminster or Vancouver in connection with Canadian Pacific Railway as follows:—From points on the Victoria, Vancouver and Eastern Railway and Navigation Co.'s line between Vancouver and New Westminster, not inclusive, to points on the Canadian Pacific Railway west of Winnipeg, except such points as may be rated direct by the Great Northern Railway Company and its connections, rates based upon one cent per 100 pounds higher than rates maintained from Vancouver by the Canadian Pacific Railway Company, the Victoria, Vancouver and Eastern Railway and Navigation Company to be allowed $2\frac{1}{2}$ cents per 100 pounds.

1450. Complaint of R. Robson, Mayook, B.C., alleging poor train service on the Canadian Pacific Railway on its Crowsnest branch from Mayook to Cranbrook, B.C. (Application 9026.)

Application dismissed.

1451. Complaint of British Columbia Mills, Timber and Trading Company, of Burnaby, B.C., alleging excessive freight rates charged on the Vancouver, Westminster and Yukon Railway from Vancouver to Burnaby, B.C. (Application 7883.)

Order made that the Great Northern Railway Company operating the Vancouver, Westminster and Yukon Railway, shall forthwith file and publish rates on lumber, shingles and articles taking the same rates via New Westminster or Vancouver in connection with the Canadian Pacific Railway Company, as follows:—From points on Vancouver, Victoria and Eastern Railway and Navigation Co.'s line between Vancouver and New Westminster, not inclusive, to points on the Canadian Pacific Railway, west of Winnipeg, except such points as may be routed directly by the Great Northern Railway Company and its connections; rates based upon one cent per hundred pounds higher than rates maintained from Vancouver by the Canadian Pacific Railway Company, the Vancouver, Victoria and Eastern Railway and Navigation Company to be allowed two and one-half cents per hundred pounds.

1452. Application of the Vancouver Board of Trade for refund under Order of the Board, dated August 11, 1906, in what is known as the Transcontinental Rate Case, 31st July, 1907. (Application 542.)

Application dismissed.

1453. Complaint of A. Thompson, Dewdney, B.C., respecting express charges of the Dominion Express Company on milk shipments from Dewdney, B.C. (Application 4457.)

Stands pending the final consideration of the question of express rates generally.

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1454. Application of C. T. W. Piper, Vancouver, B.C., for an order directing the Great Northern Railway Company to construct a spur to the premises of the Britannia Trading and Lumber Company, Burnaby Lake (near Vancouver, B.C.) (Application 4295.)

Application dismissed.

1455. Application of the Victoria, Westminster and Yukon Railway for an Order under sections 184 and 186 of the Railway Act of 1903, approving of the place and mode of crossing of their branch line No. 2 from False Creek to Burrard Inlet over the lane between Parker and Napier streets in the city of Vancouver, B.C. (Application 4325. Case 986.)

Application dismissed.

1456. Application of the Victoria, Westminster and Yukon Railway for an Order authorizing that company to construct a branch line within the city of Vancouver from a point on its main line north of False Creek, B.C. (Application 3698. Case 432.)

Application dismissed.

1457. Application of the Victoria, Westminster and Yukon Railway for an Order under section 177 of the Railway Act of 1903, approving of the plan and mode of crossing by their branch line from False Creek to Burrard Inlet in the city of Vancouver across the tracks of the Canadian Pacific Railway. (Application 4145. Case 807.)

Application dismissed.

1458. Application of the V. W. & Y. Ry., for an Order under section 177 of the Railway Act of 1903, approving of the place and mode of crossing by the V. W. & Y. from False Creek to Burrard Inlet of the Canadian Pacific Railway near Burrard Inlet at Victoria, B.C. (Application 3550. Case 268.)

Application dismissed.

1459. Application of the V. W. & Y. Ry. Co., under sections 184 and 186 of the Railway Act of 1903, for Order approving of the place and mode of crossing of its branch line No. 2 from False Creek to Burrard Inlet over Powell street in the city of Vancouver, B.C. (Application 4319. Case 980.)

Application dismissed.

1460. Application of the V. W. & Y. Ry. Co., for Order under sections 184 and 186 of the Railway Act of 1903, approving of the plans and mode of crossing of their branch line No. 2 from False Creek to Burrard Inlet over the lane between Hastings and Princess streets, in the city of Vancouver, B.C. (Application 4320. Case 981.)

Application dismissed.

1461. Application of the V. W. & Y. Ry. Co., for Order under sections 184 and 186 of the Railway Act of 1903, approving of the place and mode of crossing of its branch line No. 2 from False Creek to Burrard Inlet over the lane between Harris and Keefer streets in the city of Vancouver, B.C. (Application 4321. Case 982.)

Application dismissed.

1462. Application of the V. W. & Y. Ry. Co., for Order under sections 184 and 186 of the Railway Act of 1903, approving of the place and mode of crossing of its branch line No. 2 from False Creek to Burrard Inlet, over Barnard street, Vancouver, B.C. (Application 4322. Case 983.)

Application dismissed.

1463. Application of the V. W. & Y. Ry. Co., for Order under sections 184 and 186 of the Railway Act of 1903, approving of the place and mode of crossing of its branch line No. 2, from False Creek to Burrard Inlet, over Napier street in the city of Vancouver, B.C. (Application 4335. Case 991.)

Application dismissed.

1464. Application of the V. W. & Y. Ry. Co., for Order under sections 184 and 186 of the Railway Act of 1903, approving of the place and mode of crossing of its

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branch line No. 2, from False Creek to Burrard Inlet, over Harris street in the city of Vancouver, B.C. (Application 4339. Case 1001.)

Application dismissed.

1465. Application of the Vancouver, Westminster, and Yukon Ry. Co., for Order under sections 184 and 186 of the Railway Act, 1903, approving of the place and mode of crossing of their branch line No. 2 from False Creek to Burrard Inlet over Boundary avenue, in the city of Vancouver, B.C. (Application 4318. Case 979.)

Application dismissed.

1466. Application of the V. W. & Y. Ry., for Order under section 177 of the Railway Act, 1903, approving of plans and mode of crossing of its branch line No. 2 from False Creek to Burrard Inlet over the tracks of the B. C. Electric Ry. Co., Limited, at Harris street in the city of Vancouver, B.C. (Application 4336. Case 998.)

Application dismissed.

1467. Application of the V. W. & Y. Ry., for an Order under section 177 of the Railway Act for 1903, approving of the place and mode of crossing over the tracks of the B. C. Electric Ry. Co., Limited, New Westminster line, at Venables street in the city of Vancouver, B.C. (Application 3595. Case 312.)

Application dismissed.

1468. Application of the V. W. & Y. Ry., for an Order under section 177 of the Railway Act of 1903, approving of plans and mode of crossing by its branch line No. 2, from False Creek to Burrard Inlet, over the tracks of the Canadian Pacific Railway in the city of Vancouver, B.C. (Application 4315. Case 976.)

Application dismissed.

1469. Application of the V. W. & Y. Ry. Co., under section 177 of the Railway Act, 1903, for an Order approving of the place and mode of crossing over the track of the British Columbia Electric Railway Company, Limited, at Harris street, in the city of Vancouver, B.C. (Application 3596. Case 313.)

Application dismissed.

1470. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for approval of the plant and mode of crossing of its branch line No. 2 from False Creek to Burrard Inlet, over the tracks of the British Columbia Electric Railway Company, at Powell street in the city of Vancouver, B.C. (Application 4329. Case 990.)

Application dismissed.

1471. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for an order approving of the place and mode of crossing of its branch line No. 2, from False Creek to Burrard Inlet, over the lane between William and Napier streets in the city of Vancouver, B.C. (Application 4328. Case 989.)

Application dismissed.

1472. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for an Order approving of the place and mode of crossing of its branch line No. 2, from False Creek to Burrard Inlet, over Raymur avenue, in the city of Vancouver, B.C. (Application 4317. Case 978.)

Application dismissed.

1473. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237, for authority to cross Cordova street, with branch line, which commences at point 'A' on another proposed branch line, across south shore of False Creek east of Westminster avenue, and running to point 'B' on Burrard Inlet, city of Vancouver, B.C. (Application 4334. Case 995.)

Application dismissed.

1474. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237, for authority to cross the lane between Harris and Bernard streets with branch line, which commences at point 'A' on another proposed branch line,

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across south shore False creek east of Westminster avenue, running to point 'B' on Burrard avenue, city of Vancouver, B.C. (Application 4338. Case 1000.)

Application dismissed.

1475. Application of the Vancouver, Westminster and Yukon Railway Company under section 237, for authority to cross over Parker street, with branch line, which commences at point 'A' on another proposed branch line across south shore of False creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, city of Vancouver, B.C. (Application 4333. Case 994.)

Application dismissed.

1476. Application of the Vancouver, Westminster and Yukon Railway, under section 237, for crossing Westminster avenue by branch line from point 'A' on main line to point 'B' on company's property near Clark drive, in city of Vancouver, B.C. (Application 4316. Case 977.)

Application dismissed.

1477. Application of the Vancouver, Westminster and Yukon Railway, under section 237, for authority to cross Princess street, with branch line, which commences at point 'A' on another proposed branch line across south shore of False creek, east of Westminster avenue, and running to point 'B' on Burrard inlet, city of Vancouver, B.C. (Application 4323. Case 984.)

Application dismissed.

1478. Application of the Vancouver, Westminster and Yukon Railway, under section 237, for authority to cross Hastings street, with branch line, which commences at point 'A' on another proposed branch line across south shore of False creek, East Westminster avenue, and running to point 'B' on Burrard Inlet, city of Vancouver, B.C. (Application 4330. Case 991.)

Application dismissed.

1479. Application of the Vancouver, Westminster and Yukon Railway, under section 237, for authority to cross Keefer street, with branch which commences at point 'A' on another proposed branch line across south shore of False creek, east of Westminster avenue, and running to point 'B' on Burrard Inlet, city of Vancouver, B.C. (Application 4324. Case 985.)

Application dismissed.

1480. Application of the Vancouver, Westminster and Yukon Railway, under section 227, for authority to cross tracks of British Columbia Electric Railway at Venables street, with branch line which commences at point 'A' on another proposed branch line across south shore of False creek, east of Westminster avenue, and running to point 'B' on Burrard Inlet, city of Vancouver, B.C. (Application 4331. Case 992.)

Application dismissed.

1481. Application of the Vancouver, Westminster and Yukon Railway, under section 237, for authority to cross Venables street with branch line, which commences at point 'A' on another proposed branch line across south shore of False creek, east of Westminster avenue, and running to point 'B' on Burrard Inlet, city of Vancouver. (Application 4332. Case 993.)

Application dismissed.

1482. Application of the Vancouver, Westminster and Yukon Railway, under section No. 237, for authority to cross lane between Keefer and Princess streets, with branch line which commences at point 'A' on another proposed branch across south shore of False creek, east of Westminster avenue, and running to point 'B' on Burrard Inlet, city of Vancouver, B.C. (Application 4337. Case 999.)

Application dismissed.

1483. Application of the Vancouver, Westminster and Yukon Railway Company, under section 177 of the Railway Act, 1903, for an Order approving the place and

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mode of crossing over the track of the British Columbia Electric Railway Company, Limited, on Powell street, in the city of Vancouver. (Application 3559. Case 275.)

Application dismissed.

1484. Application of the Vancouver, Westminster and Yukon Railway Company for approval of crossing by its branch line, which commences at point 'A' on another proposed branch line, across the south shore of False creek, east of Westminster avenue, and running to point 'B' on Burrard Inlet, over the lane between Hastings and Cordova streets, in the city of Vancouver, B.C. (Application 4327. Case 988.)

Application dismissed.

1485. Complaint of R. Robertson & Co., Vancouver, B.C., respecting freight rates of the Canadian Pacific Railway Company to Ladysmith, British Columbia, as covered by supplement 7 to C.R.C., No. W. 542, effective April 10, 1908. (Application 9308.)

Application dismissed.

1486. Complaint of the Trades and Labour Council, Vancouver, British Columbia, that the Canadian Pacific Railway Company is running its trains from Vancouver without proper inspection. (Application 8371.)

Application dismissed.

1488. Application of the Vancouver and Lulu Island Railway Company, for an Order authorizing a proposed deviation from plan of branch line on the south side of False Creek. (File 344.)

Dismissed.

1489. Complaint of the municipality of Burnaby and Coquitlam, B.C., regarding defective cattle guards on the line of the Vancouver, Westminster and Yukon Railway or the Vancouver, Victoria and Eastern Railway and Navigation Company. (File 1875).

Order that the Vancouver, Victoria and Eastern Company within four months replace all cattle guards upon their line with guards in accordance with the blue print upon the file.

1490. Complaint of the municipality of Burnaby regarding fares charged on certain portions of the British Columbia Electric Railway Company's Inter-urban line between Vancouver and New Westminster.

Withdrawn.

1491. Application of the Alaska Pacific Express Company for approval of its contract forms. (Application 4537. Case 1202.)

Judgment reserved.

1492. Application of the Vancouver Power Company, Limited, for an Order sanctioning the erection and maintenance of a line of wires for the conveyance of electric power across the tracks of the Canadian Pacific Railway Company at the Second Narrows, Burrard Inlet, Vancouver, B.C. (File 1746.)

Order to issue in terms of draft attached to file.

1493. Complaint of W. R. Austin alleging insufficient protection in the matter of cattle guards on the Canadian Pacific Railway in that district. (File 9436.)

Judgment reserved, to be considered with the general question.

1494. Complaint of Alister Thompson, Dewdney, B.C., regarding the unprotected track of the Canadian Pacific Railway Company at Dewdney, B.C. (Application 9883).

Stands to be dealt with after the disposition of question of a general Order of Board *re* cattle guards set down for hearing in Ottawa on 4th May, 1909.

1495. Complaint of Fred Allen, et al, regarding the extension of the railway siding now terminating at the western Boundary of the Pacific Coast Mill Company on Coal Harbour.

Application refused.

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1496. Complaint of Mission District Board of Trade, Mission City, British Columbia, that railway company has not built new station promised last year. (Application 9259.)

Stands on statement of counsel that railway intends to go on with work as soon as weather is favourable.

1497. Complaints of Albert Milton against the Vancouver, Victoria and Eastern Railway and Navigation Company (18 in all). (File 9861. Case 4806.)

Order made directing Great Northern Railway Company to erect fences, construct swing gates and farm crossings. Work to be completed by 3rd May, 1909.

1498. Complaint of Mr. Kenworthy against the Canadian Pacific Railway Company regarding repairs to a dike at Dewdney, B.C. (Application 9862. Case 4807.)

Plans to be filed by applicant for approval; pending this being done, matter stands. Consent of the railway company to be obtained.

1499. Complaint of R. Hay, of Barnet, B.C., regarding damages for cattle killed on right of way of Canadian Pacific Railway Company. (File 9506.)

Dismissed, Board holding it has no jurisdiction.

1500. Complaints of Messrs. Murphy, McKenzie, Milton, Armstrong and Shannon regarding farm crossings, gates, fences and cattle guards on the Vancouver, Victoria and Eastern and Great Northern Railway at and near Cloverdale, B.C. (Application 9858. Case 4804.)

Order made directing Great Northern Railway Company to erect fences, construct swing gates and farm crossings—work to be completed by 3rd May, 1909.

1501. Complaint of Messrs. Shannon, Milton and Murphy against the New Westminster Southern and Great Northern Railway Companies regarding flood gates on the north side of Nicomekle river and on the east side of the railway track. (Application 9859. Case 4805.)

Order made as in previous file No. 9858, Case 4808.

1502. Complaint of Alexander F. Latts, of Port Moody, B.C., regarding damages for cow killed on the line of the Canadian Pacific Railway Company.

Application dismissed, no jurisdiction.

1503. Application of the Vancouver, Victoria and Eastern Railway and Navigation Company, for an order, under section 252 of the Railway Act, sanctioning the placing and maintaining of crossings over lot 23, Group 2, New Westminster District, B.C.

Application refused.

1504. Application of the city of Vancouver, under sections 256 and 257 of the Railway Act, for leave for the construction of a bridge for highway purposes over the tracks of the Canadian Pacific Railway Company at the intersection of the northerly shore of False Creek and Fourth avenue, Vancouver, British Columbia. (Application 9865. Case 4809.)

Application granted. Order issued.

1505. Complaint of H. T. Thrift of lack of accommodation for either passengers or freight at Hazelmere Station, B.C. (Application 9841.)

Judgment directing railway company to provide reasonable and proper facilities for public at Hazelmere. Formal Order not to issue for thirty days to allow time for Great Northern Railway Company to appeal on question of jurisdiction.

1506. Application on behalf of Mrs. H. M. Milsted for an Order that the Vancouver, Victoria and Eastern Railway and Navigation Company proceed immediately to construct fences along its right-of-way, on both sides, passing through lot 8, Abbotsford Townsite, New Westminster District, B.C., and the northeast quarter of section 15, township 16, New Westminster District, B.C., and along the highway adjoining said right-of-way on the southerly side thereof. (Application 9866. Case 4810.)

Order made directing railway company to construct proper fences with gates at farm crossings by 3rd April, 1909.

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1507. Application of the Grand Trunk Railway, under sections 256 and 257, for Order approving of overhead farm crossing to be constructed at mile post 125.12 (between London and Windsor, lot 27, con. 3, township of London, on Anthony Dickie lands. (Application 1707. Case 1673.)

Order made granting application to construct bridge and approaches thereto for vehicular traffic at both ends and a separate one for cattle at north end and for purposes of a farm crossing over tracks of applicant company on farm of A. M. Dickie, Grand Trunk Railway, at its own expense to remove present crossing over Canadian Pacific Railway, and place at the point shown on plan. When the work is completed as set forth in the order, the applicant company to compensate Dickie for damage, if any, done to him by the raising of the bridge and the diversion of the main approach. Amount to be determined by agreement or arbitration under the provisions of the Railway Act. Bridge to be completed by October 7, 1909.

1508. Consideration of the question of protection of road crossing in the village of Dutton, Ontario, by the tracks of the Michigan Central and Père Marquette Railroad companies. (Application 9437. Case 4576.)

Order made that the crossing be protected by folding gates, to be installed by the Michigan Central Railroad Company by May 1, 1909. Gates to be operated between 7 a.m. and 7 p.m. daily, except on Saturdays, when to be operated until midnight. Cost of installing gates and erecting tower to be borne equally between the Michigan Central Railroad Company and the Père Marquette. The cost of maintenance and operation to be borne: 55 per cent by the Michigan Central Railroad Company, 25 per cent by the Père Marquette, 10 per cent by the village of Dutton, 10 per cent by the township of Dunwicke.

1509. Consideration of the protection of level crossing in the village of Rodney, Ontario, by the Michigan Central and Père Marquette Railroad Companies. (Application 9437. Case 4575.)

Order made that the crossing be protected by folding gates, to be installed by the Michigan Central Railroad Company by May 1, 1909. Gates to be operated between 7 a.m. and 7 p.m. daily except on Saturdays, when to be operated until midnight. Cost of installing gates and erecting tower to be borne equally between the Michigan Central Railroad Company and the Père Marquette Company. Cost of maintenance and operation to be borne: 55 per cent by the Michigan Central Railway, 25 per cent by the Père Marquette, 10 per cent by the village of Rodney, and 10 per cent by the township of Aldsborough.

1510. Accident on Michigan Central Railway at West Lorne, Ont., January 9, 1909.

NOTE.—This matter is set down for the purpose of considering the matter of protection at level crossing in the village of West Lorne, just east of the station. (Application 9415.)

Order made that the crossing be protected by folding gates, to be installed by the Michigan Central Railroad Company by May 1, 1909. Gates to be operated between 7 a.m. and 7 p.m. daily, except on Saturdays, when to be operated until midnight. Cost of installing gates and erecting tower to be borne equally between the Michigan Central Railroad Company and the Père Marquette Company. Cost of maintenance and operation to be borne: 55 per cent by the Michigan Central Railroad Company, 25 per cent by the Père Marquette, 10 per cent by the village of West Lorne, and 10 per cent by the township of Aldsborough.

1511. Complaint of the municipality of North Cowichan, B.C., per James Norcross, alleging dangerous condition of crossing at Duncan, British Columbia, and requesting that an automatic signal be provided. (Application 8142.)

Order made directing railway company to remove section foreman's house at crossing to a point at least 75 feet from its right of way by May 15, 1909.

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1512. Application of the Pacific Coast Coal Company, Limited, and South Wellington Coal Mines, Limited, under section 250, for authority to lay a wooden box containing an air and steam pipe under tracks of the Esquimalt and Nanaimo Railway Company near South Wellington, on section 14, range 6, Cranberry District.

Application granted.

1513. Application of the Chief Commissioner of Lands and Works, province of British Columbia, under section 237, for an Order directing the Nicola, Kamloops and Similkameen Coal and Railway Company to improve all diversions and highway crossings between Spence's bridge and Nicola, B.C., particularly at point 28½ and 30½ miles from Spence's Bridge. (Application 7055. Case 3060.)

Order made that the Nicola, Kamloops and Similkameen Coal and Railway Company forthwith improve for the protection, safety and convenience of the public all diversions and encroachments upon the highway by the said company along its line of railway, between Spence's Bridge and the townsite of Nicola, and more particularly with reference to the diversions and encroachments upon the public highway at the points on its line of railway between the bridge of the company over the Nicola river, situated about 28½ miles from Spence's Bridge, and the eastern boundary of the railway belt, as directed and required by the Chief Engineer of the Department of Lands and Works of the province of British Columbia. Also that in the event of any dispute arising as to the compliance with the terms of the order or otherwise, the same shall be settled by the Board.

1514. Application of the Government of British Columbia, per John J. Fulton, Chief Commissioner of Land and Works, for an Order directing the railway company to construct suitable highway crossings, cattle guards, planking, cross fences, at Rupert street, Renfrew street, Angus road, and Nanaimo street, townsite of Hastings, British Columbia. (Application 8716.)

Order made that railway company at its own expense construct suitable highway crossings at Rupert street as soon as street is opened up and an overhead bridge not less than 20 feet wide at Nanaimo street as soon as street is opened up.

1515. Application of the Chief Commissioner of Lands and Works, province of British Columbia, under clause No. 237, for an Order directing the Esquimalt and Nanaimo Railway Company and the Wellington Colliery Company to provide suitable overhead crossing 1¼ miles from Ladysmith station, British Columbia. (Application 6682. Case 2827.)

Order made granting leave to applicant to construct highway bridge over the two railways near Ladysmith station, British Columbia. Cost to be divided as follows: one-half by Colliery Company, ¼ by Railway company, and ¼ by Government.

115a. Complaint of R. Carter, Courtney, B.C., respecting the freight and passenger rates on the Canadian Pacific Railway to Comox and Cumberland. (Application 4607. Case 1312.)

Application dismissed.

1516. Application by the solicitor for His Majesty's Attorney General for British Columbia in connection with the resolution of the Legislative Assembly of British Columbia for an Order placing British Columbia in the same and as favourable condition in respect to tolls for freight and passenger traffic over the Canadian Pacific Railway through British Columbia as are other portions of the Dominion of Canada over the main line of said railway. (Application 4747.)

Application fails. If applicant desires to give evidence for purpose of establishing that the rates now charged in British Columbia are unreasonably high or that discrimination exists, leave will be granted.

1517. Complaint of F. W. Logan, Provincial Dairy Commissioner, province of British Columbia, against express rates charged by Dominion Express Company and Canadian Pacific Railway on milk shipments in that province, also conditions imposed by Canadian Pacific Railway. (Application 5097.)

Stands to be considered after the general question of express rates is dealt with.

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1518. Complaint of the Central Farmers' Institute of British Columbia, alleging inadequate protection afforded stock along the line of railways in British Columbia, with respect to cattle guards and the proper fencing of railway rights of way. (Application 9307.)

Stands to be disposed of after general question *re* cattle guards is dealt with at May, 1909, sittings of Board in Ottawa.

1519. Application of the Grand Trunk Pacific Railway Company, under section 178 of the Railway Act, for leave to take a right of way 200 feet in width across government lands between the east line of township 12, range 13, west 1st meridian, and the eastern boundary of the province of British Columbia. (Application 9085. Case 4343.)

Refused.

1520. Application of the Pacific Coast Coal Mines, Limited, under sections 222 and 227 of the Railway Act for authority to construct a spur, making connection between the tipple at South Wellington mine, situated in Cranberry district, Vancouver Island, and tracks of the Esquimalt and Nanaimo Railway Company. (Application 8902. Case 4212.)

After Bill No. 62 receives Royal assent the coal company to file plans for an under crossing of the Esquimalt and Nanaimo Railway when, if same approved by Board's engineer, order to go for crossing at the expense of the applicant.

1521. Application of the city of Victoria, for an Order to renew, rescind, or vary order No. 3731, and for an order under section 238 of the Railway Act that the Esquimalt and Nanaimo Railway Company submit to the Board a plan and profile of the railway at the place or point where the said line crosses the land known as the old Esquimalt road in Victoria west; and for an Order under section 237 of the Railway Act to construct a level crossing for vehicular traffic; and to remove the existing fences across the said highway. (File 5663. Case 2292.)

Leave granted to open the street in question across the railway. The railway company to do the necessary grading and planking for the crossing; city to maintain crossing when constructed. Formal order to issue when city furnishes evidence by affidavit that trees in question have been removed and that binding arrangements have been made that buildings will not be erected on the vacant lot referred to in evidence.

1522. Application of the Quamichan Mill Company for authority to construct a crossing over the tracks of the Esquimalt and Nanaimo Railway at a point 1½ miles north of Duncan, British Columbia. (File 9433. Case 4541.)

Application granted. In the terms of agreement between the parties.

1523. Complaint of Steve Huntley of Nokomis, Sask., that the Grand Trunk Pacific Railway Company has fenced the road allowance in such a way as to prevent him from obtaining easy access to a portion of his farm.

Stands to be heard at Ottawa.

1524. Application of the Honourable the Minister of Public Works of British Columbia for an Order directing the Canadian Pacific Railway Company to provide, construct, and maintain a suitable highway crossing at or near a point west of the Columbia river where the railway intersects the Eagle Pass, or at such other point as the Board may direct.

Order to go in terms of agreement.

1525. Application by G. E. & N. to construct spur in Victoria to Wilson & Company, Limited.

Granted. Engineer to report.

1526. Complaint by the Deputy Attorney General as to fires being caused by the Esquimalt and Nanaimo Railway Company during the summer months.

Reserved.

1527. Application of the St. Mary's and Western Railway, under sections 222 and 227, for authority to construct a spur across the tracks of the Grand Trunk Railway

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to the premises of the J. D. Moore & Company, and D. Maxwell & Sons, St. Marys, Ontario. (Application 8814. Case 4154.)

Application granted. Order issued.

1528. Application of the Canadian Pacific Railway Company, under sections 222 and 237 of the Railway Act, for an Order authorizing the construction, maintenance and operation of a branch line of railway, or spur, in the city of Montreal, commencing from a point on the centre line of the most westerly track leading to the freight car repair shop of the said company, distant about 250 feet northerly from the northerly end of freight car shop, thence in a southwesterly and northwesterly direction across De Levis street to and into the premises of the Montreal Gas Company, now leased to the Montreal Light, Heat and Power Company, situate on Cadastral lot 159 in the Hochelaga ward of the city of Montreal, a distance of about 1,780 feet, together with another siding about 550 feet in length. (Adjourned hearing.) (Application 8152. Case 3708.)

Application granted. Order issued.

1529. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 227 of the Railway Act, for an order granting the company authority to connect its tracks with the tracks of the Toronto, Hamilton and Buffalo Railway Company in lot 27, con. 6, township of Crowland, county of Welland, Ont. (Application 8838. Case 4176.)

Application granted. Order issued.

1530. Application of the Grand Trunk Railway Company, under section 29, for under section 227 of the Railway Act, for an Order granting the company authority to derails on each side of the crossing of the Grand Trunk tracks on Charlotte street, Peterborough, Ont. (Application 650. Case 3464.)

Application granted. Order issued.

1531. Application of the Canadian Northern Ontario Railway Company under section 237 of the Railway Act, for authority to construct its line of railway across certain highways in the township of Gloucester, county of Carleton, between mileage 48.27 and 54.6 west from Hawkesbury, Ontario. (Application 8770. Case 4122.)

Application granted. Order issued.

1532. Application of the National Board of Trade, under sections 269 and 284 for the adoption by the Board of regulations (a) prohibiting the practice of spitting in railway cars, railway stations and waiting rooms except in proper receptacles prepared for the purpose, and (b) requiring the railway companies to properly clean and disinfect railway cars, station and waiting rooms in order to prohibit the dissemination of tuberculosis or other infectious diseases. (Application 1708. Case 4502.)

(Next case numbered 1534, as one case was stricken out.)

1534. Complaint of the Royal Northwest Mounted Police, *re* alleged 'dangerous highway crossing' of the Calgary and Edmonton Railway (Canadian Pacific Railway) range 27, mile 25.5, town of Claresholm, Alberta. (Application 8696.)

Order made that railway company put the crossing between townships 11 and 12 in proper condition, also widen the partial diversion on the northeast quarter of section 36, township 11, range 27 and leave granted company to expropriate lands for such purpose.

1535. Application of the town of Claresholm, Alberta, under section 186 of the Railway Act, 1893, for an Order directing the Canadian Pacific Railway to provide and construct a suitable highway crossing where the company's railway intersects Third avenue, in the centre of the said town of Claresholm, Alberta. (Application 3783. Case 499.)

Order made that applicant at its own expense secure lots 15, 16 and 17 or parts thereof and do necessary grading for said street through block 'B' up to west side of Canadian Pacific yards.

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1536. Application of the Canadian Pacific Railway, under section No. 167 of the Railway Act, for an Order authorizing diversions in its Crowsnest branch between Peigan and Crowsnest, Alberta. (Application 6902. Case 2951.)

NOTE.—This application is set down for consideration of the complaint of the towns of Cowley, Pincher Creek, Burmiss and Blairmore, Alberta, with respect of this diversion.

Order made amending order No. 6251 as follows:—

New townsite of Cowley to be located on northeast corner of section 17, west side of track, applicant company granted leave to expropriate lands necessary for a new townsite.

Applicant company to adjust with owners of present lots in Cowley location of their holds in the new townsite, and if that cannot be worked out to the satisfaction of owners and applicant company within six months from date, all, if any, of such owners and the company to have leave to apply to the Board to adjust differences.

All matters between village council, owners and company, that cannot be decided amicably reserved for disposition by the Board.

That the proposed site of the new station at Blairmore, be submitted to the Village Council of Blairmore before being approved of by Board.

Leave granted to the company to expropriate all lands required for new locations of stations of Pritchard Creek and Blairmore.

1537. Application of the Canadian Pacific Railway, under section 29 of the Railway Act, to amend the Order of the Board dated February 3, 1908, made upon the application of the Northwest Jobbing and Commission Company, for an Order under section 226 of the Railway Act, directing the Canadian Pacific Railway, the Alberta Railroad and Irrigation Company, or both of the said companies, to construct and provide a suitable branch or spur from the line of one of the said companies, or from the lines used jointly by them in their yards in the city of Lethbridge, province of Alberta, to the warehouse of the applicant company, in the said city, according to the plan on file with the board under case No. 460, file No. 3955, so as to vary the location of the said spur line and define the method of construction thereof, and directing the said Northwest Jobbing and Commisison Company to pay into court an amount sufficient to cover the cost of the said spur if constructed in accordance with this application. (Application 3955. Case 3583.)

Order made amending order 4353, by striking out the operative part of said order and placing thereafter the following clause:—

That the Pacific Company be, and is hereby directed to construct, maintain and operate a branch line of railway or spur from a point marked 'R' on the present freight spur; thence curving across Baroness road to the east side of Smith street; thence along Smith street to the north side of Dufferin street; in the city of Lethbridge, province of Alberta, a distance of fourteen hundred and forty-five feet, as shown in yellow, to the north side of Redpath street, and in red from the north side of Redpath street to the north side of Dufferin street, on the plan on file with the Board under case No. 3583, File 3955, which is hereby approved.

1538. Peition of the local union of the United Mineworkers Board of Trade and storekeepers, of Taber, Alberta, complaining against the freight rates of the Canadian Pacific Railway on coal shipments.

Also alleged failure of the Canadian Pacific Railway to supply an adequate number of cars for the movement of coal traffic. (Application 8626. Case 4036.)

Application dismissed.

1539. Complaint of the Alberta Farmers' Association and the Carston Board of Trade respecting freight, passenger and express rates charge on the Alberta Railway and Irrigation Company to and from Cardston, Alberta. Also alleged non-billing and posting of tariffs at station in accordance with Railway Act. (Application 3744.)

Stands for judgment, referred to chief traffic officer for a report.

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1540. Complaint of F. W. Godsall, of Cowley, Alberta, respecting passenger rates on the Canadian Pacific steamers between ports of call on the Kootenay and Arrow lakes, B.C. (Application 5889.)

Application dismissed.

1541. Complaint of J. G. Swinney, Cowley, Alberta, alleging excessive express rates charged by Dominion Express Company on milk from Cowley, Alberta, to Lichel, British Columbia. (Application 4370.)

Application dismissed.

1542. Complaint of F. W. Godsall, Cowley, Alberta, alleging excessive express rates between Winnipeg and Cowley. (Application 4896.)

Application dismissed.

1543. Application Edmonton Board of Trade *re* use of lignite coal on locomotives. Reserved.

1544. Petition of the residents of Westbank, British Columbia, requesting that the Canadian Pacific Railway Company's steamers deliver mail and passengers at least three times a week at their wharf, Hall's Landing. (Application 7307.)

Application dismissed.

1545. Application of the city of Revelstoke, British Columbia, that the Canadian Pacific Railway be asked to make arrangements towards the construction of a bridge for traffic in connection with proposed new railway bridge across the Columbia River at Revelstoke, British Columbia. (Application 3885.)

Application dismissed.

1546. Complaint of R. G. Sidley, of Sidley, British Columbia, that the Vancouver, Victoria and Eastern Railway is discriminating in favour of the United States towns in regard to railway facilities in British Columbia. (Application 5039.)

Application dismissed.

1547. Complaint of the Columbia Flouring Mills Company, Ltd., Enderby, British Columbia, against the Canadian Pacific Railway, alleging they are not complying with section 236 of the Railway Act, with respect to company's rails where they cross Mill street, town of Enderby, British Columbia. (Application 9172.)

Judgment reserved, to look into the question as to whether Mill street is a highway or not. Application subsequently granted.

1548. Application of the Vancouver, Victoria and Eastern Railway, under section No. 222, for authority to construct a branch line to connect main line with the international boundary near Myncaster, district of Yale. (Application 5369. Case 1981.)

Application dismissed.

1549. Application of the city of Grand Forks, British Columbia, under section 29, for an Order varying Order of the Board, dated 23rd October, 1907, granting leave to the K. V. R. Ry. to cross Main street, city of Grand Forks. (Application 5736. Case 2343.)

Application granted.

1550. Application of the city of Grand Forks, British Columbia, under section 29, for an Order varying Order of the Board, dated 23rd October, 1907, granting leave to the K. V. R. Ry. to cross Bridge street, city of Grand Forks, British Columbia. (Application 5743. Case 2334.)

Application granted. Order issuer.

1551. Application of the city of Grand Forks, British Columbia, under section 29, for an Order varying Order of the Board, dated 23rd October, 1907, granting leave to the K. V. R. Ry. to cross Winnipeg avenue, city of Grand Forks, British Columbia. (Application 5741. Case 2345.)

Application granted. Order issuer.

1552. Application of the city of Grand Forks, under section 29, for Order varying Order of the Board, dated 23rd October, 1907, granting leave to K. R. V. Ry. to cross

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Victoria avenue, city of Grand Forks, British Columbia. (Application 5737. Case 2346.)

Application granted. Order issued.

1553. Application of the city of Grand Forks, British Columbia, under section 29, for an Order varying Order of the Board, dated 23rd October, 1907, granting leave to Kettle River Valley Railway to cross Fifth street in the city of Grand Forks, B.C. (Application 5739. Case 2348.)

Application granted. Order issued.

1554. Application of the city of Grand Forks, British Columbia, under section 29, for Order varying Order of Board, dated October 23, 1907, granting leave to the Kettle River Valley Railway to cross Alexandra avenue, city of Grand Forks, British Columbia. (Application 5740. Case 2349.)

Application granted. Order issued.

1555. Application on behalf of the city of Grand Forks, British Columbia, under section 29, for Order varying Order of the Board, dated October 23, 1907, granting leave to Kettle River Valley Railway to cross Sixth street, city of Grand Forks, British Columbia. (Application 5742. Case 2350.)

Application granted. Order issued.

1556. Application of the city of Grand Forks, British Columbia, under sections 229, 274 and 275 of the Railway Act for Order directing Columbia and Western Railway Company to adopt a signal service at its crossing of Riverside avenue, city of Grand Forks, British Columbia. (Application 9141. Case 4435.)

Order made for installation of electric bell by company at its expense, one half cost of maintenance to be borne by the city; speed limit of ten miles an hour.

1557. Complaint of the Board of Trade of Greenwood, British Columbia, alleging irregularity in freight and passenger rates on the Victoria, Vancouver and Eastern Railway, involving unjust discrimination against British Columbia points on the V. & E. Ry., in favour of points in State of Washington. (Application 9264.)

Application refused.

1558. Complaint of the Vernon Fruit Company of Vernon, British Columbia, alleging excessive freight rates charged by the Canadian Pacific Railway on fruit shipments from Peachland to Victoria, British Columbia, also against the minimum carload weight on such shipments. (Application 8911.)

Application withdrawn.

1559. Complaint of the Fruitvale Fruit Growers Association, against condition of fences, station accommodation for handling of freight and express on the Great Northern Railway at Fruitvale, British Columbia, also request that the railway company appoint an agent at that point. (Application 8868.)

Order made for erection of station and freight shed within one month. Local parties to furnish wire and put same on telegraph posts after railway company; the latter to put an _____ in the station. Connection at Salmo.

1560. Consideration of the terms of Order No. 2115, November 16, 1906, respecting interwitching charges at Rossland, British Columbia, as between the Red Mountain Railway and the Columbia and Western Railway Companies. (Application 5.)

Judgment reserved.

1561. Application of the Board of Trade of Nelson, British Columbia, respecting freight rates on the Canadian Pacific Railway to and from that point. (Application 5664.)

Application dismissed.

1562. Complaint of F. W. Godsall, Cowley, Alberta, against alleged delay by the Canadian Pacific Railway Company in running of trains between Cowley and Nelson. (Application 4896.)

Application dismissed.

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1563. Application of Frank Miller, Columbia, British Columbia, for an Order directing the Kettle River Valley Railway Company to provide a crossing or bridge in front of his residence, Columbia, British Columbia. (Application 2283.)

Application withdrawn upon railway company undertaking to put in crossing.

1564. Application of the Canada Zinc Company, Limited, for authority to cross the Canadian Pacific Railway Company's (Proctor branch) tracks with transmission wires near Station, B.C., 76, one mile from Nelson, British Columbia. (Application 7556. Case 3297.)

Upon affidavit being filed within thirty days by applicant that poles have been protected to satisfaction of the railway company order to go, otherwise application refused.

1565. Application of the Hasting Exploration Syndicate, Limited, for a station agent at Erie, British Columbia, on the line of the Nelson and Fort Sheppard Railway.

Application withdrawn.

1566. Complaints of the Okanagan Board of Trade regarding freight rates on fruit.

Application withdrawn.

1567. Complaint of Robert Robson of Mayook, British Columbia, alleging poor train service on the Canadian Pacific Railway on the Crown West branch from Mayook to Cranbrook, British Columbia.

Application withdrawn.

1568. Complaint of A. E. Watts that railway companies do not comply with Provincial or Dominion Acts of Parliament in the matter of keeping their right of ways clear of inflammable material.

Application withdrawn.

1569. Complaint of A. E. Watts that no station accommodation of any kind is provided by the Canadian Pacific Railway Company for passengers or freight at Wattsburg, and that the Dominion Express Company has refused to deliver goods at Wattsburg.

Order made that railway company file plans within two months, and upon approval to erect station at Wattsburg within four months from date of Order.

1570. Complaint of the Cranbrook Fernie Farmers' Institute that cattle guards on the line of the Canadian Pacific Railway Company are totally inadequate for the protection of cattle and other stock. (Application 9848, Case 4879).

Stands pending consideration of a general Order regarding cattle guards, &c.

1571. Application of the Cranbrook-Fernie Farmers' Institute for an order to compel the Canadian Pacific and other railway companies to re-open and restore certain public roads they have destroyed, obstructed and obliterated wherever such roads are required for use by the public in British Columbia. (File 9848. Case 4878).

Stands for judgment, the company undertaking to investigate as to the obstructions (if any), and report as to the same.

1572. Petition of the Legislative Assembly of Manitoba, asking that railways operating in the province of Manitoba be required to pay demurrage in all cases where such companies are not able or fail to furnish cars within one week after being ordered, said demurrage to be at the same rate per day as charged by railway companies when a car is not loaded in a given time after being placed at a loading platform or elevator, and to be deducted from the freight rate. (Application 4235.)

Stands until next sittings of Board in Winnipeg at the request of Attorney General for province of Manitoba.

1573. Application of the city of Winnipeg, Manitoba, for an order directing the Canadian Pacific Railway Company to remove its tracks from McPhillips street, Winnipeg, Manitoba. (Application 2050).

Stands at request of all parties pending the making of a formal agreement between the city of Winnipeg and the Canadian Pacific Railway Company. Copy to be filed with Board.

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1574. Application of the city of Winnipeg for an Order approving of the plans of the Salter street bridge across the tracks of the Canadian Pacific Railway Company at Winnipeg, Manitoba. (File 3084.)

Stands at request of all parties pending the making of a formal agreement between the city of Winnipeg and Canadian Pacific Railway Company. Copy to be filed with Board.

1575. Application of M. McGregor of Eagleton, P.O. (Tilston, Manitoba), for a semi-weekly mail service by train instead of by stage or mail carrier system; for an Order that an agent be placed at the station in question, and for an Order directing the Canadian Pacific Railway Company to rename the town of 'Eagleton.'

Application dismissed.

1576. Complaint of M. McGregor, of Tilston, Manitoba, on behalf of the farmers and citizens of that town against the poor service of the Canadian Pacific Railway between Lauder and Tilston, Manitoba. (Application 9125.)

Application dismissed.

1577. Application of the Kemp Manufacturing Company and Winnipeg Ceiling and Roofing Company for an Order directing the railway companies to equalize their freight rates on metallic shingles and sidings from eastern points to Manitoba, Saskatchewan and Alberta, as against the freight rates on the manufactured products. (Application 4756. Case 1460.)

Judgment reserved.

1578. Complaint of John Kerr of Franklin, Manitoba, regarding freight rates on vegetables shipped from Franklin to Winnipeg. (Application 9796.)

Stands for judgment.

1579. Petition of residents of Broderick, Sask., for an appointment of an agent by the Canadian Pacific Railway Company at that point. (File 9479.)

Stands for judgment. Company to file statement of earnings at station in question.

1580. Complaint of London Fence Company regarding the crossing of Broadway street, Portage la Prairie, Manitoba, by the tracks of the Canadian Northern Railway Company. (Application 6255.)

Judgment of Board that agreement between the complainant and railway company should be carried out. Railway consents to pay expense of hydrant if city extends water main.

1581. Complaint of Union of Manitoba Municipalities requiring cattle guards on the various railroads in Manitoba. (Application 9818.)

Stands for consideration of general question.

1582. Petition of settlers in the vicinity of the Thunder Hill branch of the Canadian Northern Railway for an Order compelling the Canadian Northern Railway to operate its line and siding about 18 miles west of Benito.

Application dismissed.

1583. Complaint of J. F. Wilson, of Dana, Sask., for damages for cattle killed on the Canadian Northern Railway right of way through section 23, township 38, range 26, west second meridian, also through S. E. quarter section 22, township 38, range 26, west second meridian.

Application dismissed, no jurisdiction.

1584. Application of the town of Dauphin, Manitoba, to have Vermilion street opened across the right of way of the Canadian Northern Railway Company. (Application 9798. Case 4783.)

Order made that railway company permit public to use the crossing at Vermilion street on condition that no objection be raised to westbound trains reasonably obstructing Dartmoor street and eastbound trains Vermilion street.

1585. Application of the Rat Portage Lumber Company, Ltd., for an Order, under sections 314, 318, 321 and 323 of the Railway Act, for an Order directing the Canadian Northern Railway Company to reduce its toll for carrying saw logs from the Rainy River and points adjacent thereto to the mills of the applicant company.

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Application disposed of except as to the rate (if any) to be charged for shunting on railway company's spur to Rat Portage Lumber Company's mill.

1586. Application of D. A. Ross for an order compelling the Canadian Northern Railway Company to accept freight for shipment on its Bird's Hill branch.

Application withdrawn.

1587. Complaint of J. J. Powell regarding the dangerous crossing between mile post 244 and 245 on the main line of the Canadian Northern Railway, Winnipeg to Edmonton. (Application 9437. Case 4628.)

Referred to the Board's engineer to report.

1588. Application of Local Improvement District 26-B-4 for an Order directing the Canadian Northern Railway Company to make level crossings on road allowances in township 50, range 3, west of the 4th meridian. (Application 9513. Case 4634.)

Order to go for railway company to put in crossings in accordance with the regulations.

1589. Complaint of the Prince Albert Board of Trade that the new joint commodity tariff of the Canadian Northern Railway Company and the Canadian Pacific Railway Company to British Columbia points is unsatisfactory and for a repayment to shippers of all amounts paid in excess of the rates applied to Prince Albert prior to the transfer of the Qu'Appelle, Long Lake and Saskatchewan Railroad and Steamboat Company. (Application 6945.)

Application dismissed.

1590. Application of the Board of Trade of Redvers, Sask., for a station and facilities at point on the line of Canadian Pacific Railway Company. (Application 9872.)

Order made directing railway company to provide and maintain a station at Redvers, known as its No. 5 standard plan, to be completed by 1st September, 1909.

1591. Application of the Canada West Coal Company, Ltd., for authority to construct tunnel under the tracks of the Canadian Pacific Railway where the same cross the Crowsnest branch on the south half of section 31, township 9, range 16, west 4th meridian, at Taber, Alberta.

Application dismissed.

1592. Application of Edward D. Coffey *et al*, for an Order directing the Canadian Northern Railway Company to put into immediate and continuous operation its line of railway from Etoimami to The Pas.

Application dismissed.

1593. Complaint of the Rev. William Stocker, of Elkhorn, Manitoba, *re* condition of Canadian Pacific Railway station at Elkhorn. (Application 9681.)

Reported upon by Board's inspector. Company has undertaken to see that the grounds for the complaint are removed.

1594. Application of the Bell Telephone Company, under section 248 of the Railway Act, for leave to exercise its power in the construction, maintenance and operation of its line of telephone under a part of Fortification Land and Victoria square within the limits of the city of Montreal, province of Quebec. (Application 9648. Case 4682.)

Application granted. Order issued.

1595. Consideration of the question of protection of highway crossing at King street, Sherbrooke, province of Quebec, by the Canadian Pacific Railway. (Application 9437. Case 4708.)

No Order made as railway company assured Board that it had decided to remove its passenger station to another point which will do away with necessity of any regular train crossing the highway in question.

1596. Application of the corporation of the city of Sherbrooke, province of Quebec, for an Order requiring the Grand Trunk Railway Company to remove additional track laid across King street and discontinue shunting their cars across the said King street.

The question of protection will also be considered by the Board in this connection. (Application 2267. Case 1436.)

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Stands until after June 1, 1909, to give railway company an opportunity to relieve the inconvenience complained of by such steps as it deems necessary.

1597. Consideration of the question of protection of the level crossing by the Canadian Pacific Railway Company and the Grand Trunk Railway at College street, Lennoxville, province of Quebec. (Application 419. Case 842.)

Board ordered folding gates to be installed by the Canadian Pacific and Grand Trunk Railway companies for protection of the Canadian Pacific Railway crossing and Boston and Maine, and Grand Trunk Railway crossings. Gates to be operated from a tower on Canadian Pacific Railway property and to be operated day and night. Cost of construction to be borne equally by the three railway companies. Cost of maintenance to be borne 5-12 by Grand Trunk Railway Company, 3-12 by Boston and Maine, 3-12 by Canadian Pacific Railway Company, 1-12 by the village of Lennoxville. Gates to be installed by 19th July, 1909.

APPENDIX D.

SUMMARY OF THE PRINCIPAL JUDGMENTS DELIVERED BY THE BOARD FROM FEBRUARY 1, 1904, TO MARCH 31, 1908.

The towns of Port Arthur and Fort William v. The Bell Telephone Company and the Canadian Pacific Railway Company.

The municipalities of these towns owned and operated a joint telephone system within the limits of the two towns, and applied to the Board under section 193 of the Railway Act, 1903, for an order directing the Canadian Pacific Railway Company to allow the installation of telephone instruments on the premises and in the railway stations of the company to connect with the municipalities' exchange.

In May, 1902, and prior to the enactment of section 193, an agreement was made between the railway company and the Bell Telephone Company, under which the telephone company, for valuable consideration, was granted, for a period of ten years, the exclusive privilege of placing telephone instruments, apparatus and wires in the several stations, offices and premises of the Railway Company in Canada, where the telephone company had established, or might, during the continuance of the agreement, establish telephone exchanges.

Hearing at Ottawa, February 16 and 29, 1904.

Judgment of Board, March 15, 1904.

Held, per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 205): That the said agreement was valid and not void or voidable as being in restraint of trade or against public policy, and that an order under section 193 should provide for payment of compensation upon just terms for all lawful rights and interests injuriously affected thereby.

Per Bernier, Deputy Chief Commissioner: While the agreement is valid and compensation should therefore be allowed, the question of compensation should be reserved for future consideration and determined after hearing any case that might be presented by the Canadian Pacific or any other railway company in support of damages.

Per Mills, Commissioner: That the agreement is in restraint of trade and against public policy, and that compensation should be awarded only for the use of the premises occupied by the municipalities' telephones, and the expense of operating them.

Order suspended pending further argument as to the question of compensation.

Upon questions of law the opinion of the Chief Commissioner prevails.—Section 10 of Railway Act, 1903.

A further hearing of this application on the question of compensation was had at Ottawa, October 12, 1904.

Judgment July 14, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 279): Held, adopting the former judgment of a majority of the Board.

Compensation should be made to the railway company for the use of its stations and the interference with its property consequent upon such installation.

Compensation should also be made to the telephone company for the loss of the exclusive privilege of telephone connection with such stations.

The effect on the exclusive agreement between the telephone company and the railway company of installing such a municipal telephone system must be determined by the law of the province of Quebec where the contract was made.

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The installation of such a municipal system would not of itself rescind the exclusive contract between the telephone company and the railway company. At most its only effect would be to give the injured party a right to have the contract rescinded. Quebec Civil Code, Art. 1065, *Dupuis v. Dupuis*, R. 72 R. 19 S.C. 500.

The evidence does not furnish a satisfactory basis of determining the compensation to be paid by the municipalities, and suggestions are made as to its ascertainment hereafter by the board or by arbitration.

Payment of such compensation, or the giving of proper security therefor, to both companies, should be a condition precedent to the installation of the system in each town.

Leave was given to state a case for the opinion of the Supreme Court whether the installation of the municipal system entitles the telephone company to a rescission of its contract with the railway company.

In the matter of the Shore Line Railway.

Complaint was made to the Board that the Shore Line Railway, running between the city of St. John and the town of St. Stephen, in New Brunswick, was unsafe for traffic. The board caused its inspecting engineer to make an examination of the said line of railway, and upon his report, made an order forbidding the running of trains, cars or engines over the railway between certain points named. Against this decision and order a protest was made on behalf of the New Brunswick Southern Railway Company, the company now operating what was and is still known as the 'Shore Line Railway,' upon the ground that the Board had no jurisdiction or authority to direct or enforce the stoppage of trains or the operations of said railway.

The undertaking of the Shore Line Railway Company was, by Act of the Parliament of Canada, chapter 63 of 58-59 Victoria, declared to be a work for the general advantage of Canada, and that Act provided that the Railway Act of Canada should apply to the company and its undertaking instead of the laws of the province of New Brunswick and the Railway Act of that province.

Later, the Shore Line Company defaulted in the payment of its bonds. Proceedings were taken in the courts of New Brunswick, as a result of which the railway was subsequently sold, and the sale was followed by an Act of the New Brunswick Legislature, chapter 74, 1 Edward VII., incorporating the New Brunswick Southern Railway Company for the purpose of acquiring, holding and operating all or any part of the Shore Line Railway; and also all the capital stock, bonds, rights, franchises, powers and privileges, and properties of the said Shore Line Railway; and by chapter 102 of 3 Edward VII., an Act of the said legislature was passed confirming the deed of conveyance of the property and franchises of the Shore Line Company to the New Brunswick Southern Railway Company.

Judgment June 7, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 277).

A railway company incorporated under the laws of a provincial legislature, whose undertaking is afterwards declared to be a work for the general advantage of Canada, is subject to the exclusive control of the Parliament of Canada and the Railway Act applies. No provincial legislature can restore control, legislatively speaking, to the provincial legislature.

Duthie v. The Grand Trunk Railway Company.

This was an application, by J. H. Duthie of Toronto, against the Grand Trunk Railway Company for relief on account of its action in detaining three cars loaded with coal at Belleville to enforce payment of charges for demurrage on car service.

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and, in default of payment, disposing of the coal by private sale and applying the proceeds in payment of the freight and storage charges.

Hearing at Ottawa, June 27, 1905.

Judgment, August 24, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., 305):

The Board of Railway Commissioners is a judicial, as well as an executive body, created to enforce the railway legislation of the Dominion Parliament, but not to supplant or supplement the provincial courts in the exercise of their ordinary jurisdiction. In making orders and regulations under sections 23 and 25 of the Act the board is not to adjudicate in respect to rights arising out of past transactions, but to lay down rules for future conduct. The board is not empowered to award damages or any other relief for any injury caused by an infraction of the Act, e.g., section 214.

Held, that any claim for damages for premature or improvident sale should be prosecuted by action in the provincial courts.

By the tariff of tolls approved by the Governor in Council under the Railway Act of 1888, railway companies were authorized to charge higher tolls than by a special tariff filed under the Act of 1903, which specifically provided for car service or demurrage charges. The latter were also recognized by the classification rules authorized by the Board and in force at the time in question.

Held, that the company not having sought to charge the maximum tolls approved by the Governor in Council (of the nature of a standard tariff) must be understood as having accepted the goods for carriage at lowest rates conditional upon its right to make a charge for demurrage.

Held, that the rate charged was *prima facie* reasonable and that no order should be made against the railway company.

Re Car Service Rules.

Numerous complaints and objections were presented to the Board respecting charges made by railway companies for demurrage or delay in the loading or unloading of car by shippers or consignees, and the rules governing such charges.

The practice of railway companies, before the constitution of the Board, was to charge lower tolls on goods in carload lots than for less quantities. This practice was sanctioned by the freight classification and has been followed in the tariffs authorized by the Railway Act, 1903.

It appears to the Board to be reasonable that railway companies which delivered cars to, or placed them at the disposal of, shippers or consignees, for loading or unloading, should have some means of limiting the time to be occupied in such loading and unloading, and should be authorized to impose a reasonable additional toll on traffic carried at carload rates for any detention or use of the cars or continued occupation of their tracks, beyond such time as would be reasonably required for loading or unloading. It was felt, too, to be important in the public interest as securing the fullest possible use of railway cars, tracks and equipment, that such delays should be discouraged.

With this object in view, and after giving every opportunity which was reasonably possible to the various interests affected to be heard upon the subject, the Board, by order dated January 25, 1906, abolished and disallowed all tolls or charges theretofore charged or imposed by any railway company subject to its jurisdiction, for delay in, or additional time used in, the loading or unloading of cars, whether under the name of demurrage car rental, or car service, or otherwise, and all rules regulating the same, substituting therefor the tolls and rules set out at length in the order. (See Appendix H.)

Said order, and the rules therein set forth, came into force and took effect the first day of March, 1906.

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The Sydenham Glass Company v. the Grand Trunk Railway Company, Canadian Pacific Railway Company, Lake Erie and Detroit River Railroad Company, Wabash Railway Company, Michigan Central Railroad Company, and the Hamilton, Toronto and Buffalo Railway Company.

This was an application by the Sydenham Glass Company for lower special rates than the special rates agreed to by the railways interested, and which applied on shipments of glassware, bottles, and lamp chimneys from Wallaceburg, Ontario, on the line of the Père Marquette Railway Company to Toronto, Hamilton, Berlin, London, Ontario, and to Montreal, Quebec.

The original application covered the commodities named both in carload and less than carload lots, but on the hearing it was announced on behalf of the applicants that the application would be restricted to bottles in carloads.

Hearing at Toronto, June 20, 1904.

Judgment of Board, July 30, 1904.

Per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 409):

Bottles in carloads were formerly carried from Wallaceburg to Toronto, Hamilton, Berlin and Montreal at special rates less than the regular basis of fifth class. Upon the Railway Act coming into force on February 1, 1904, these special rates were increased.

It appeared that at the present rates the Glass Company cannot maintain its position in the home market against foreign competition:—

Held, that the rates should be reduced to the following scale, viz.: to London, 8 cents; to Toronto, Hamilton and Berlin, 13 cents; to Montreal, 23½ cents.

Scobell v. Kingston and Pembroke Railway Company.

Complaint alleged (1) that discriminative rates were imposed on the transportation of cedar lumber, railway ties and poles of all kinds made from cedar, and used for railway purposes; (2) that unreasonable and excessive rates were imposed on the transportation of the telegraph, telephone and trolley poles as compared with rates on lumber, &c.

Hearing at Ottawa, April 23, 1904.

Judgment of Board, July 30, 1904.

Per Blair, Chief Commissioner (2 Can. Ry. Cas., p. 412).

It appeared that an increase had been made in the rates on cedar products without any material change in the rate on common lumber and similar products. This increase was made by the railway company to retard the shipment of cedar products required for its own use.

Held, a discrimination within the meaning of s. 253, s.s. 2,—the railway company ordered to cease from levying rates on cedar products in excess of the rates on other descriptions of lumber and their products. ‘Common carriers in making rates cannot arrange them from an exclusive regard to their own interests, but must have respect to the interest of those who may have occasion to employ their services, and must subordinate their own interests to the rules of relative equality and justice.’ (Reynolds v. Western N. Y. R. W. Co., 1 I.C. Rep. 685.)

The Sutherland-Innes Company and the Wallaceburg Cooperage Company v. the Père Marquette, Michigan Central, Wabash, Grand Trunk, and Canadian Pacific Railway companies.

This was a complaint against the increase of rates by the railways named on cooperage stock between points in eastern Canada, and more especially to the increase from Wallaceburg and other western Ontario points to Montreal for local delivery and for exports.

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Hearing at Toronto, June 20 and 23, 1904.

Judgment of Board, July 30, 1904.

Per Blair, Chief Commissioner (2 Can. Ry. Cas., p. 412):

Held, that rates on cooperage stock should not exceed rates on common lumber according to the mileage lumber tariffs of the railways, but such rates when specially reduced on account of water competition, &c., need not necessarily apply to cooperage stock. From points in western Ontario to Montreal, the maximum rate for local delivery was fixed upon the evidence at 16½ cents, and for export, including 'terminal,' at 18 cents per hundred pounds.

Tower Oiled Clothing Company's case.

Application by the Tower Oiled Clothing Company, of Toronto, for a carload rating on oiled clothing, shipped in carload lots.

It appeared that carload shipments had been made from Toronto to Halifax for fishermen's use, and it was alleged that shipments might also be made to the Canadian Northwest for ranchers' use if the application were granted.

Hearing at Toronto, June 28, 1904.

Judgment of Board, July 30, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 417):

Held, that although the discrimination involved in the difference between C. L. and L. C. L. rating has received tacit assent, a shipper has not thereby the right to demand a lower rate on carloads, unless possibly he can show that the carload rate demanded would pay reasonably for the service and that a refusal would injure his business. Upon the evidence a third-class rate for carloads of not less than 20,000 pounds from Toronto to Halifax, Winnipeg and Calgary and other points reached by applicants was ordered.

The United Factories (Limited) v. The Grand Trunk Railway Company.

Complaint alleged that a rate of 3 cents per 100 lbs. on logs from Penetanguishene to Newmarket, which the railway company had maintained for a number of years, from 1895 to November, 16, 1903, conditional that the product of the logs should be delivered for carriage to the Grand Trunk Company, was, on November, 16, 1903, increased to 4 cents per 100 lbs., but subject to the same condition.

Hearing at Ottawa, April 28 and May 6, 1904.

Judgment of Board, October 10, 1904.

Per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 424):

Held, that since the increased rate is neither unjust, unreasonable nor contrary to some provision of the Railway Act, the application must be refused.

Re The Canadian Freight Association and Industrial Corporations.

This was an application by the Canadian Freight Association, on behalf of all the railways in Canada, under subsection 4 of section 275 of the Railway Act, 1903, for permission to make concessions from the current rates on material for construction and machinery for equipment of new industrial plants.

Certain of the railway companies, members of the Association, had been in the habit of granting a reduction of 25 per cent on the rates on such material, &c.

Judgment, October 10, 1904, refusing application.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 427):

That although the Board is prepared to give due effect to subsection 4 of section 275 of the Act, it must have a separate and distinct application in such case, so as to judge of the effect of its order upon other industries, shippers and dealers.

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Ontario Fruit Growers' Association v. Canadian Pacific Railway Company et al.

Complaints alleged (1) unreasonable and excessive freight rates on fruits and (2) that the charge for icing in transit were too great.

Hearing at Toronto, June 21, 23 and 24, 1904.

By agreement between complainants and the railway companies, the following modifications were made in the classification:—

(a) Apples in boxes less than carloads, from 2nd to 3rd class.

(b) Pears in boxes and barrels, L.C.L., from 1st to 3rd class, and in carloads from 3rd to 5th class.

Also the following commodity rates:—

(c) On fresh fruits (small), from the fruit districts to points in Eastern Ontario, Quebec, and the maritime provinces, fresh fruit shall be carried at 4th class rates in carloads of not less than 20,000 lbs. instead of 3rd class rates, and at 2nd class rates in L.C.L. of 10,000 lbs. and over instead of 1st class rates.

(d) And from points in Ontario and Quebec to Winnipeg, Portage la Prairie and Brandon, a fourth-class rates in carloads of not less than 20,000 pounds, instead of third class.

Approved by Board.

Judgment October 10, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 430):

Held, that the present system of making fixed charges for icing cars, irrespective of the actual cost of such service, is not based on sound principle, and must be discontinued; that the actual cost of the ice and the placing thereof in the cars should not be exceeded. Pending a decision of the Board upon further consideration as to a reasonable charge, a charge of not more than \$2.50 per ton of 2,000 pounds on the actual weight of the ice supplied was, in this instance, authorized.

The Pea Millers' Association v. Canadian Railway Companies.

The Pea Millers' Association complained that the railways charged higher rates from Ontario milling points to the sea-board on split peas for export than they charged on other grain products, such as flour and rolled oats for export.

Split peas for export were formerly carried upon the flour basis. The advance complained of commenced in October, 1902, and was made apparently under pressure. The McMorran Company, of Port Huron, complained to the Interstate Commerce Commission that Canadian railways were carrying split peas for export at the grain product rate, while it had to pay the higher rate of the Michigan roads.

The Michigan railroads opposed any reduction in their rates, and the result was that the rate advanced on the Grand Trunk and other railways in Canada.

Hearing at Ottawa.

Judgment of Board, October 10, 1904.

Per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 433):

That the former basis of rates must be restored.

In re application of the Grand Trunk Railway Company for permission to make reduced rates on coal used for manufacturing purposes.

This was an application by the Grand Trunk Railway Company, under subsection 4, section 275, of the Railway Act, for authority to continue a difference in the rate of freight on bituminous coal of ten cents per ton between certain points on its line of railway, such reduced rates being in favour of the manufacturer as compared with that charged to the dealer or consumer.

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The applicant company had been in the habit of allowing a rate of 80 cents per net ton on bituminous coal used for manufacturing purposes at Cobourg, carried from the Niagara frontier to Cobourg while the usual and customary rate was 90 cents on coal carried between the same points for other shippers and used for domestic purposes.

The company justified the difference in the rate on the ground that certain manufacturers in Cobourg would be unable to pay the higher rate and carry on business successfully.

Judgment, October 10, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 438):

That no evidence has been offered to sustain this claim; but even if proved, the reduction could not be allowed. The allowance of a reduction in the freight rate on any article of merchandise to one class of shippers, and the refusal of the same rate to another class, is unjust discrimination, and forbidden by section 252.

(Castle v. B. & O. R. W. Co., 8 I. C. Rep., 333, approved.)

The Almonte Knitting Company v. the Canadian Pacific Railway Company and the Michigan Central Railroad Company.

The Almonte Knitting Company complained that the rates on coal to Almonte from the Niagara and Detroit frontiers were unreasonably high as compared with the rates to Carleton Junction, Ottawa, and adjacent stations. The rate to Carleton Junction, Ottawa, and adjacent stations is \$2 per ton from the Niagara frontier, and \$2.25 from Detroit, while the rate to Almonte is 40 cents higher, points on the lateral line from Carleton Junction being charged an arbitrary rate above the rate to Carleton Junction.

Hearing at Toronto, June 28, 1904.

Judgment of Board, October 10, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 441):

Under certain conditions rates to a point on a branch or lateral line may be higher than to points on the main line, though at a less distance from the junction point; but such rates must not be unreasonable or disproportionately higher than to nearer points on the main line.

Held, that the circumstances warrant a higher rate to Almonte than to Carleton Junction and Ottawa; but as the arbitrary rate to Almonte on 10th class traffic was only 1 cent per 100 pounds (20 cents per ton) it must not be exceeded on coal between the same points.

Re metallic shingles.

This was a complaint by the Canadian Manufacturers' Association objecting to the approval by the Board of the Canadian Freight Classification No. 12, which, among other changes and additions, advanced metallic shingles from 7th to 5th class in carloads.

This classification No. 12 was issued by the railway companies in 1903, and superseded all previous classifications. It had never been approved by order in council, but was provisionally sanctioned by order of the Board of July 16, 1904, pending consideration of some of the objections raised.

From January 1, 1884, when the first Canadian joint freight classification was issued, until November 1, 1884, none of these commodities were specially classified; but, on a later date, a circular was issued by the railway companies making certain changes and additions by which, among other things, they placed metallic shingles in packages as L.C.L. 3, C.L. 5. This rating continued in force until March 1, 1888, when a reduction of one class was made, namely to L.C.L. 4 C.L. 6.

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In May, 1890, a further reduction was made on carloads, and until March, 1901, the classification stood at L.C.L. 4, C.L. 7.

In March, 1901, the rating was placed at L.C.L. 4, C.L. 5.

The complainants set up that these goods were in the 7th class for over ten years; that the change was never sanctioned by order in council; that no substantial reason had been shown for the advance; and that the retention of the previous classification was necessary in order to enable the complainants to compete on fair terms with wooden shingles, siding, &c.

The railway companies claimed that the former classification was a mistake: that the proper class in which to place such commodities was the 5th class; that the plate, which is the raw material used in the manufacture of these articles, was in the 5th class; and that it was both unreasonable and unfair to the railway companies to place the manufactured article in a class for which the rates are lower than those upon the raw material from which the article is made; and, also, that articles of the 7th class were then carried at lower rates than those at which articles of that class were carried when these particular commodities were in the 7th class, and that they should not be obliged to lower their rates on these goods.

Hearings at Toronto, June 23, 24 and 28, 1904.

Judgment, June 29, 1905.

Killam, Chief Commissioner: Held, that the reasonable and fair course would be to establish for the articles commodity rates equal to those at which they were carried immediately before the change of classification in March, 1900.

Re St. Pierre & Company and Temiscouata Railway Company.

This was a complaint by George St. Pierre & Co., of Fraserville, Que., alleging that the Temiscouata Railway Company was unjustly discriminating against the complainants in the matter of its freight rates, and applying for an order directing the railway company to revise and lower its freight rates.

Hearing at Rivière du Loup, April 19, 1905.

Judgment, July 5, 1905.

Killam, Chief Commissioner: The rates charged by the Temiscouata Railway Company were not unreasonable in view of the nature of the country which the railway traversed and of its traffic.

The standard freight tariff of the company was identical with the standard tariffs of the Grand Trunk Railway Company, the Canadian Pacific Railway Company, the Canada Atlantic Railway Company, and most of the other railways in the provinces of Ontario and Quebec, and the same, also, as that of the Intercolonial Railway between its stations west of Lévis.

The rates charged in the special tariff filed by the Temiscouata Railway Company on various commodities such as are authorized by section 260, subsection 2, of the Railway Act, compared favourably with the joint tariffs on the same commodities issued by the Grand Trunk Railway Company and the Canadian Pacific Railway Company, in the province of Quebec, except such rates as were rendered necessary by competitive conditions and which did not prevail on the Temiscouata Railway.

The Temiscouata Railway Company had no special commodity tariff for grain and grain products in carloads.

Held, that in accordance with the common practice of other railway companies and in the interest of lumber camps upon or near its line, the Temiscouata Railway Company should prepare such a tariff on an equitable basis.

It appeared that the Temiscouata Railway Company had, previous to July, 1904, a proportional tariff on various classes of goods (according to the Canadian freight classification from Rivière du Loup and Edmundston, on through shipments from

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points beyond, and it now charges on this through business its full standard rates as on strictly local business, except on some traffic to Edmundston.

Held, that the company should state its reasons for withdrawing this proportional tariff, and on what grounds, if any, it objected to restoring it.

The Brant Milling Company v. the Grand Trunk Railway Company.

This was an application by the Brant Milling Company for an order 'allowing and instructing the Grand Trunk Railway Company to continue' an allowance heretofore made by the railway company for the cost of cartage on flour and feed shipped from the company's mill out of Portland and Montreal and other points in the eastern part of Canada.

The allowance was withdrawn after the Railway Act, 1903, came into force, and it was claimed that its continuance was necessary to the existence of the applicant's business.

Hearing at Brantford, April 26, 1904.

Judgment, July 13, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 259).

The Railway Act, 1903, requires equality in the tolls charged under substantially similar circumstances, and forbids discrimination between individuals, persons, companies and localities. Sec. 252.

No variation from the authorized tariffs of tolls can be made unless under circumstances or conditions specially provided for in such tariffs or by special tariffs of general application and not discriminating between different localities. Secs. 261, 262.

Held, that the application either for a continuance of the allowance previously made, or for a change in the authorized tariffs of tolls, in favour of the applicant alone, must fail.

Manufacturers' Coal Rate Case, 3 Can. Ry. Cas. 438 referred to; *Stone v. Detroit &c.*, 3 I. C. Rep. 613; *Hazel Milling Company v. St. Louis, &c.*, 5 I. C. Rep. 57; *re* division of joint rates, 10 I. C. Rep. 681, followed.

Coal Rates Midland to Orillia.

Complaint of F. W. Grant alleging that the rates on coal from Midland to Orillia, Ont., charged by the Grand Trunk Railway Company, are excessive as compared with the rates from Suspension Bridge, Ont., to the same point.

Hearing at Ottawa, June 8, 1905.

Judgment, September 4, 1905.

Killam, Chief Commissioner: The Board has found great want of uniformity in the rates charged by railway companies for the carriage of coal for short distances, and proposes to ascertain, if possible, whether this want of uniformity is unreasonable, or whether some attempt should be made to harmonize the rates for similar distances. In the meantime, as the rate charged by the Grand Trunk Company for the carriage of coal from Midland to Orillia is not, in itself, an unreasonable rate, the Board will not interfere.

Rates on stone from Stonewall and neighbouring points to Winnipeg.

This was a complaint by E. Williams & Co., A. Patterson & Co., Irwin & Son, and the Winnipeg Supply Company, alleging that the Canadian Pacific Railway Company, by increasing the rate on rubble and crushed stone from the complainants' quarries at Stonewall to Winnipeg from 2½ cents per hundred pounds to 3 cents per hundred pounds, while continuing the rate of 2½ cents to the Stony Mountain

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quarrymen, was unjustly discriminating against the complainants, and applying for an order (a) directing the railway company to restore the former rate of $2\frac{3}{4}$ cents from the complainants' quarries, or (b) fixing some other rate as a uniform rate from all the quarries on the Teulon branch.

Hearing at Winnipeg, September 13, 1905.

Judgment, November 23, 1905.

Killam, Chief Commissioner: In view of the facts that the traffic from Stonewall was carried for many years at the lower rate; that the railway company itself made its first rate from Gunton to Winnipeg the same, and that a promise had been made by the second vice-president of the company to some of the complainants that the $2\frac{3}{4}$ cents rate from Rockspur to Winnipeg would be protected, the Board was of opinion that that rate was a reasonable one. That opinion was strengthened by reference to the rate of $2\frac{1}{2}$ cents per 100 pounds charged by the same railway company for carriage of similar traffic from Milton, Campbellford, Credit Forks, Schaw and Orangeville to Toronto, at distances varying from 33 to 49 miles. (Stonewall is 20 miles, Rockspur 34 miles from Winnipeg.) The question of the propriety of the rates from Stony Mountain to Winnipeg should not now be considered.

Held, that a higher rate than $2\frac{3}{4}$ cents from Gunton, Rockspur and Stonewall was unreasonable, and that an order would go directing the disallowance of the 3 cent rate and the restoration of the $2\frac{3}{4}$ cent rate.

The Niagara, St. Catharines and Toronto Railway Company v. the Grand Trunk Railway Company.

This was an application by the Niagara, St. Catharines and Toronto Railway Company, under section 177 of the Railway Act, 1903, which empowers the Board to order that a junction may be made of the tracks of one company with the tracks of another company, upon such terms, at such places, and in such manner as the Board may determine, to intersect with its line the railway of the Grand Trunk Railway Company, called the Allanburg branch line or cut-off, to form a junction with the Grand Trunk Allanburg branch line at Stamford.

The evidence disclosed the fact that an agreement had been entered into between the Grand Trunk Company and the Wabash Railroad Company—the application was, in fact, a joint one by the Niagara, St. Catharines and Toronto and the Wabash Company—under which the Grand Trunk Railway granted the Wabash Company the joint user in common with itself of the Allanburg branch for a term of twenty-five years, and that the Wabash Company was then in use and possession of the said Allanburg branch jointly with the Grand Trunk Company upon the terms and conditions contained in the memorandum of agreement.

Hearing at Ottawa, March 8, 1904.

Judgment, April 5, 1904, granting order applied for.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 256):

The object of the Railway Act (sections 177, 253 and 271) is to insure that all reasonable and proper facilities for the handling, forwarding and interchange of traffic shall be afforded to the shipping public. For this purpose the Board may, without the sanction and against the will of a railway company, permit a junction to be made with its line by another railway where in the opinion of the Board such junction is reasonably necessary in the public interest and in the interest of traffic in the district through which the railway passes. The parties to a lease of a railway cannot by stipulation between themselves restrict the powers or discretion of the Board to authorize such a junction.

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The Niagara, St. Catharines and Toronto Railway Company v. the Grand Trunk Railway Company.

Application by the Niagara, St. Catharines and Toronto Railway Company to rescind an order of the Railway Committee of the Privy Council, approving of the place of crossing by the branch line of the Grand Trunk Company's main line at Merritton to the paper and cotton mills in that village, of the main track of the Niagara, St. Catharines and Toronto Railway.

It was alleged in support of the application that the conditions imposed upon the Grand Trunk Railway Company, and upon which that company was allowed to make the crossing, had not been complied with—that the Grand Trunk Railway Company has not paid, but has refused to pay compensation for the lands of the applicant company which are occupied by the crossing and with its switches and sidings by the Grand Trunk Company under the said order of the Railway Committee.

Hearings at Ottawa, March 11 and 22, 1904.

Judgment, April 5, 1904.—Application refused.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 263):

Where two railway companies differ as to the nature and extent of the protection prescribed by an order of the Railway Committee to be furnished at a crossing of two railways and one company voluntarily provides the additional protection which it claims the other company should supply according to the terms of such order, the Board will not, by an *ex post facto* order, direct the payment by the other company of the expenditure thereby incurred, and in default of payment order that the crossing be discontinued. In such cases the proper course is to apply to the court for an interpretation of the order.

The order of the Railway Committee directed that an interlocking signal system and all the necessary works and appliances for properly operating the same be provided at such crossing.

Held, that derails do not form part of the appliances required by such order, and a permanent watchman is not necessarily required.

Compensation is not allowed (1) for the use of the land of the senior company occupied by the crossing tracks of the junior company where no substantial injury is done to the lands of the senior company; nor (2) for interference with the business of the senior company, or for any other delays in the use of its railways due to precautions taken in the use of the crossing required for public safety. (S. 177, Railway Act, 1903.)

City of Toronto v. The Grand Trunk Railway Company and the Canadian Pacific Railway Company.

This was an application to the Railway Committee of the Privy Council made in June, 1900, by the city of Toronto for an order to authorize and ratify the construction and maintenance of the overhead bridge adjoining York street, in the city of Toronto, and crossing overhead the railway tracks on the Esplanade, and directing the terms as between the city and the two railway companies according to which the costs of the works were to be borne by the respective parties, pursuant to secs. 187 and 188 of the Railway Act, 1888.

The construction of this bridge, known as the York street bridge, was provided for by the 7th and 8th clauses of the Esplanade tripartite agreement, dated July 26, 1892, confirmed by Dominion statute 55 and 56 Vic., chap. 48.

The application not having been disposed of before the Railway Act, 1903, came into force, was heard by the Board on May 27, 1904.

By the said Esplanade agreement, the Canadian Pacific Railway Company agreed to build a highway over the tracks of the railway companies—the portion of

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the cost to be borne by each to be settled by arbitration or paid equally by the C.P.R. and the city, in case the Grand Trunk Railway was found to be exempt from, or entitled to, indemnity against liability for any portion of the cost.

The rights of the Grand Trunk Railway as to such exemption or indemnity were, by the agreement, to be decided by the submission to the court of a special case between the city and the Grand Trunk Railway.

After the bridge was built, and while an action brought by the city against the railway companies, in lieu of the special case, was pending, this application was made Judgment, August 19, 1904.

Blair, Chief Commissioner (4 Can. Ry. Cas., p. 62):

Application refused, the question involved not being of a public nature, but the settlement of a dispute of a private nature, which the parties, by their agreement, had left to be settled by the courts.

(The Merritton Crossing Case, 3 Can. Ry. Cas., 263, followed.)

James Bay Railway Company v. Grand Trunk Railway Company.

This was an application by the James Bay Railway Company, under section 177 of the Railway Act, 1903, for leave to place its tracks across the tracks of the Midland Division of the Grand Trunk Railway Company at a point near Beaverton, in the township of Mara, Ontario.

At the time the application was made and for several years previous thereto, the Grand Trunk Railway Company had a single track at the proposed point of crossing, and up to the time of the hearing that company had never suggested that it intended to lay down any other than the one track.

The matter was heard at Ottawa on August 29, 1905, and an order issued as of that date authorizing an undercrossing at the point named. The order provided that for the purpose of the crossing the Grand Trunk Railway should, at the expense of the James Bay Company, raise its tracks for such distance on each side of the crossing as the chief engineer of the Board should consider necessary to provide a proper grade and to such height (not exceeding two feet) over the then level of the tracks as the chief engineer should require. The order also provided that the masonry work of the undercrossing should be sufficient to allow of the construction of an additional track by the Grand Trunk Railway Company.

From this order the James Bay Company appealed to the Supreme Court of Canada on the question whether, under section 177 of the Railway Act, 1903, or otherwise, the Board had jurisdiction to make the order, in so far as it directed the masonry work of the undercrossing to be sufficient to allow of the construction of an additional track on the line of the Grand Trunk Railway Company.

Appeal dismissed: 37 S.C.R. 372.

Later, by petition, dated May 8, 1906, the James Bay Railway Company appealed to His Excellency the Governor General in Council, under subsection 2 of section 44 of the Railway Act, 1903, to vary the said order of August 29, 1905, by striking out the provisions requiring the James Bay Company to provide for a second track of the Grand Trunk Railway Company.

This petition was also dismissed by order of the Privy Council, dated May 31, 1906.

Preston and Berlin Street Railway Company v. the Grand Trunk Railway Company.

This was an application by the Preston and Berlin Street Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Grand Trunk Railway Company at Caroline and Erb streets, in the town of Waterloo, Ontario.

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In order to avoid the crossings applied for it was suggested at the hearing, on behalf of the town, that the Board should exercise the power it was alleged to possess under section 187 of the Act, and direct the Grand Trunk Railway Company to move its tracks so as to allow sufficient space for the running of the applicant company's line between Mr. Seagram's property and the line of the Grand Trunk Railway.

Hearing at Toronto, November 7, 1905.

Judgment, Killam, Chief Commissioner: The application to be dealt with at the present time is simply one to allow the two crossings at Caroline and Erb streets, and in the public interests the application must be refused. The Preston and Berlin Railway Company previously applied to the Board for leave to use a small portion of the Grand Trunk Railway Company's land in order to dispense with the crossing. The company was incorporated solely under the provincial laws, and the provision in the Railway Act giving the Board power to authorize the use by one company of the railway tracks or the land of another, applies only to a railway within the authority of the Board, authorized by Act of the Dominion Parliament, or a work declared to be for the general advantage of Canada.

The suggestion that the Board attempt to exercise a power to compel the railway company, which already had a crossing over the streets, to move that crossing, not for the protection of the public, but as a matter of convenience to another railway, might be worthy of some consideration, but does not arise on the present application.

The town might succeed in an application to have the tracks of the Grand Trunk Railway Company moved and have the highway extended so as to cover the land of the Grand Trunk between the corner of the Seagram building and the tracks and a portion of it that is not already a highway. I would not say what view the Board would take of it, nor how far it could be done with safety apart from the question of its being a proper exercise of the power under that section 187 that has been referred to. If the town wishes to do that they should make an application.

Later the application was renewed at the town of Waterloo, after the Board had an opportunity of examining the locality.

Judgment, Chief Commissioner: The Board finds that the inspection recently made of the locality has only confirmed its previous view that the crossings ought not to be allowed to be made; that the only apparent reason for such crossings is to enable the electric railway company to use property on which it desires to have its terminal station and yard, and that the Board does not consider this a sufficient reason for adding these two additional crossings so close together, and upon such a curve, to the other sources of danger in Waterloo; that the fact that the railway company has chosen to so locate its terminal property, or that the council of the town of Waterloo is unwilling to allow the electric railway company to place its tracks on other streets does not seem sufficient to force the Board, in the exercise of the discretion conferred upon it by law, to a different conclusion than that which it deems proper in the public interest; that the Board regrets that the Grand Trunk Railway Company does not see fit to allow the electric railway company sufficient space for the running of its cars between Mr. Seagram's property and the line of the Grand Trunk Railway, but that the Board finds that it has no authority to compel the Grand Trunk Railway Company to allow the Preston and Berlin Company the use of any portion of the land of the Grand Trunk Railway Company.

This being so, any change in the line of the Grand Trunk Railway Company at the street crossings would be of no benefit to the Preston and Berlin Company.

Chatham, Wallaceburg and Lake Erie Railway Company v. Canadian Pacific Railway Company.

This was an application by the Chatham, Wallaceburg and Lake Erie Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks

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of the Canadian Pacific Railway Company, lessee of the Ontario and Quebec Railway Company, at William and Raleigh streets, in the city of Chatham, Ontario.

By agreement made in 1888 between the town of Chatham and the Ontario and Quebec Railway Company, the company agreed to maintain on two streets gates and watchmen where the railway crosses the highway, and to permit crossings to be made over four streets by the Chatham Street Railway Company and such other companies or corporations as the town might from time to time authorize to construct and run street railways in Chatham.

By by-law of the city of Chatham passed in 1905, the Chatham, Wallaceburg and Lake Erie Railway Company (incorporated by Act of Parliament of Canada, 3 Edw. VII., ch. 105) was authorized to lay down and construct a street railway in Chatham and was given extensive privileges of running passenger and freight cars by electric power on certain streets, including those crossed by the Ontario and Quebec Railway Company.

Hearing at Chatham, December 7, 1905.

Judgment, Killam, Chief Commissioner (5 Can. Ry. Cas., p. 175):

Held, that the applicants, although possessing greater powers than an ordinary street railway company, came within the terms of the agreement of 1888 as being a company authorized to construct and run a street railway in Chatham.

Held, also, that the consent of the railway company in the agreement of 1888, to permit crossings for street railway purposes did not amount to a consent to permit crossings for all purposes, nor require it to bear the cost of any extra precaution necessary in consequence of a street railway or other railway being built across its line, and that the extra expense incurred ought to be borne by the applicants.

City of Ottawa v. the Canada Atlantic Railway Company and Ottawa Electric Railway Company.

This was an application by the city of Ottawa, made on October 8, 1903, to the Railway Committee of the Privy Council for an order directing the construction by the Canada Atlantic Railway Company of a subway under its tracks on Bank street and apportioning the cost of such work between the Canada Atlantic Railway Company and the Ottawa Electric Company. The application was transferred to the Board after the coming into force of the Railway Act, 1903.

The Ottawa Electric Railway Company, whose undertaking was declared by the Parliament of Canada a work for the general advantage of Canada, was authorized by order of the Railway Committee of the Privy Council, to cross the tracks of the Canada Atlantic Railway Company on Bank street, and by agreement the expense of protecting the crossing was borne equally between the two companies.

By an agreement dated June 20, 1893, between the city of Ottawa and the Ottawa Electric Railway Company, provision was made for the construction and operation of the works of the company over certain streets (including Bank street) of the city of Ottawa for a period of thirty years from the date of agreement. Under this agreement the company was obliged to pay the city annually the sum of \$450 per mile of street occupied by its tracks for the first fifteen years, and the sum of \$500 per mile thereafter.

By another clause in the agreement the company undertakes to pay \$1,000 per mile on streets which are permanently paved. The agreement also provides that in the event of the city desiring to alter the grade of any street, it shall be entitled to do so without being liable to the company for any damage which it might sustain by reason of the interruption of traffic.

Hearing at Ottawa, April 11, 1905.

Judgment, July 13, 1905. Per Killam, Chief Commissioner (5 Can. Ry. Case, p. 127):

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Held, that the city corporation should contribute equally with the steam railway company to the cost of the work.

Also, that the Electric Street Railway Company should likewise contribute to the cost of the work.

Ordered, that the cost of construction of the subway, including compensation for land damages, be borne by the parties in the following proportions: three-eighths by the city corporation, three-eighths by the steam railway company, one-quarter by the Electric Street Railway Company.

Leave was granted by the Board on the application of the Ottawa Electric Railway Company to appeal to the Supreme Court of Canada from its order upon the following questions of law:—

1. Whether by reason of the terms of the agreement between the Ottawa Electric Railway Company and the city of Ottawa, dated June 28, 1893, the Ottawa Electric Railway should have been ordered to contribute to the cost of the work thereby ordered to be constructed.

2. Whether the Ottawa Electric Railway Company was entitled under said agreement, to have the city of Ottawa furnish to the Ottawa Electric Railway Company, for the use of the said company in the exercise of its running powers, a street or highway known as Bank street, including that portion of the said street where it is crossed by the tracks of the Canada Atlantic Railway Company (either with the existing grade or with a changed grade as proposed), upon terms as to payment or compensation as laid down in the said agreement, and whether if such was the effect of the said agreement, the Ottawa Electric Railway Company should have been ordered to contribute to the cost of the work, thereby ordered to be constructed.

Held, that the electric company was a company 'interested or affected' in or by the said work within the meaning of section 47 of the Railway Act, 1903, and could properly be ordered to contribute to the cost thereof (37 S.C.R. 354).

Re Canadian Pacific Railway Company's branch east of the Don, Toronto.

This was an application by the Canadian Pacific Railway Company, as lessees of the Ontario and Quebec Railway Company, under section 175 of the Railway Act, 1903, for authority to construct a branch line of railway along the east side of the river Don, in the city of Toronto.

Hearing at Toronto, April 27, 1905.

Judgment, August 15, 1905, refusing application.

Killam, Chief Commissioner: It was not shown to the satisfaction of the Board that such a branch was 'necessary in the public interest, or for the purpose of giving facilities to business,' as required by subsection 4 of section 175 of the Railway Act, 1903.

The legislature had committed the interests of that part of the city, in a large measure, to the civic authorities. The Board felt that it should not interfere with the exercise of their discretion except for grave reason, and that it should be left largely to them to decide whether any, or what, railway company should be allowed to construct a branch in that neighbourhood.

It did not necessarily follow that authority would be given to any company chosen by the city, but the fact that the city agreed to the building of such a line would tend to establish its importance, and the city's choice would have great weight provided the terms appeared to the Board to properly safeguard the interests of other railway companies as well as those of the public.

Grand Trunk Pacific Railway Company v. Canadian Pacific Railway.

The Grand Trunk Pacific Railway applied under section 123 of the Railway Act, 1903, for an order approving the location of a section of the main line of its railway from Portage la Prairie to the Little Saskatchewan river, in Manitoba.

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The route map was approved by the Minister of Railways, as required under section 122 of the Railway Act, 1903, and by the Governor in Council.

It was objected on behalf of the Canadian Pacific Railway Company that the continuation of the proposed location of the applicant company's line to the boundary between Manitoba and the province of Saskatchewan would be within a very short distance, 9 or 10 miles, of the Pheasant Hills and Manitoba and Northwestern branches of the Canadian Pacific Railway Company, which was contrary to the intent and purpose of parliament as indicated by the Act incorporating the applicant company, which required the applicant company to keep a distance of approximately 30 miles from other roads, and which involved, therefore, a very important question of law, namely, as to the true construction and interpretation of the incorporating Act, and upon which the Board might desire the opinion of the Supreme Court.

Hearing at Ottawa, September 4, 1905.

Judgment, September 4, 1905.

Killam, Chief Commissioner: It does not seem to me that there is any question of law involved in this case. The company obtained a special Act authorizing it to build a line of railway between certain points. Parliament has authorized that to be done, and it is not for this Board to say that it shall not be done.

The Railway Act, which by its terms is to be read as one with the special Act, requires the approval by the minister of the route of the railway. After the minister has approved it, the route is to be deemed the route that the railway is to follow, and it cannot be altered except by the minister himself. The Board has no arbitrary power to refuse to accept location plans which have been approved by the minister. After such approval the proper attitude for the Board to assume is to consider that there is a company empowered by parliament to construct a railway upon the route so approved. The Board has no right to say that the line shall not be built on that route. It must treat the location plans merely as plans of a part of the line according to that route located, and all it can say is as to whether the detailed location along that route shall be adopted or shall not.

There might be reasons why it should vary this a little one way or the other and still conform to the general route the minister has authorized.

Although the Board should be very chary about questioning the minister's view, still it might not be found approving that location if it believed that the minister had taken a wrong view of the law, and that he had no power to authorize or sanction the route under the special Act of the railway company. A question of that kind is raised here. There is, to my mind, however, no doubt whatever that the Grand Trunk Pacific Company has authority to build on the route that has been chosen, and that the minister has authority to sanction that route.

The company is by its Act given power to build railways from Moncton to the Pacific coast and certain points are specified through which it has to pass. The minister would be bound by this.

The clause referred to as creating a limitation as to the route in the Northwest Territories does not bind the Governor in Council to anything as a matter of law. In the first place, it requires the location to be approved by the Governor in Council, and it says that he is to have regard to a certain principle; that he shall have regard to that principle except for the purpose of reaching common points. There is one exception. Then it says, or for other satisfactory reasons. That leaves it open to the Governor in Council to say what are the satisfactory reasons. It says further that such location shall, as far as practicable (another exception), be constructed at such distance, generally not less than thirty miles from any other main line of railway, as the Governor in Council may deem reasonable. There is no limitation, in fact, as to the thirty miles. It is a suggestion thrown out by which the Governor in Council may, to a certain extent, feel himself bound to act. The very fact that some portion of the line is picked out, and certain considerations are pointed out to guide in the

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approval of that particular location, would indicate that the rest of the route is left open, as it would be to any other railway company under the general Railway Act, and its special Act, when the latter has no particular limitation as to route.

Held, that there is not sufficient in the question of law raised to cause the Board to submit the question to the Supreme Court before acting in the usual way, and that the orders should issue approving the plans.

Application of the Grand Trunk Railway Company, under section 139 of the Railway Act, 1903, for authority to take certain additional lands lying north of the Esplanade and between Yonge and York streets, in the city of Toronto, and for the settlement of the minutes of the order therein.

On April 19, 1904, an extensive fire took place in the business portion of the city of Toronto. On May 4, 1904, before proceedings had been taken by any land-owner to rebuild, this application, which included a portion of the burnt property, was made. A further application, covering more of the burnt property, was afterwards made on August 10, 1904.

The application was in the terms of the statute, to permit the applicants to expropriate the lands burnt over and other lands..... for the purpose of the 'convenient accommodation of the public and the traffic on its railway.' The result of the application was that none of the owners affected had completed any work on the ground looking towards a restoration of the buildings which had been burnt.

Two important points raised at the hearing were:—

First, as to the jurisdiction of the Board. It was claimed that sufficient ground was not laid, under section 139 of the Railway Act, to enable the Board to entertain the application.

Secondly, as to the question of compensation to those interested in the land proposed to be taken.

Hearings, May 26, July 22, December 9, 1904, and January 5, 1905, at Ottawa, and December 22 and 23, 1904, at Toronto.

Judgment, February 23, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 290):

The Board may consider not merely the traffic coming to the station on the railway of the applicants immediately or from a distance, but also future traffic on the railway and the future accommodation of the public.

In dealing with the question of compensation, the Board may require the applicants to do any act whatever, including the payment of money, in addition to the compensation ordinarily allowed under the statute, but any such additional compensation should be allowed only under very peculiar circumstances.

Held, that compensation should not be paid to the owners for business losses sustained since the fire and during proceedings taken before the Board for leave to expropriate, but interest from the date of the original application for such leave was allowed.

Bernier, Deputy Chief Commissioner (dissenting): The principles upon which compensation should be allowed are fixed by the Railway Act, and the Board has no power to order payment of compensation for any other damage than that which the statute allows in the ordinary case of expropriating lands under the Railway Act.

Mills, Commissioner (dissenting): That compensation can be allowed under section 139, for business losses sustained while an application for leave to expropriate is pending, and that this was a proper case for allowing damages for such losses.

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In re Grand Trunk Railway Company and cities of St. Henri and Ste. Cunégonde.

The Grand Trunk Railway Company applied for authority to expropriate, for the purpose of yard room, land owned by the cities of St. Henri and Ste. Cunégonde, in the province of Quebec.

Hearing at Ottawa, February 14, and at Montreal, February 22, 1905.

Judgment, May 2, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 277):

Under sections 118 and 139 of the Railway Act, 1903, railway companies may expropriate the lands of municipal corporations used by them for municipal purposes.

Reid v. the Canada Atlantic Railway Company.

This was an application under section 186 of the Railway Act, 1903, by a private individual, to compel the Canada Atlantic Railway Company to make and maintain highway crossings over or under the line of railway at points adjoining lands of the applicant, and was based upon an alleged agreement between the applicant and the railway company, claimed to have been made by Mr. J. R. Booth on behalf of the railway company.

The existence and alleged terms of the agreement were disputed as well as the authority of Mr. Booth to bind the company in that respect. The railway was constructed through the lands of the applicant, and the right of way acquired from him. He afterwards laid out into town lots, with intersecting streets, lands adjoining the railway, and the application was to have certain of these streets carried across the line of railway.

The municipality had passed a by-law purporting to establish as public highways such streets without complying with section 632 of the Municipal Act, R.S.O., 1907, chapter 223.

It was objected that the applicant had no *locus standi* to be heard on such an application, which should be made by the municipality only, and that no such highway can be opened across the line of railway without the previous enactment of a by-law of the municipality to that effect, after fulfilment of these formalities.

Hearings at Ottawa, May 16 and June 6, 1905.

Judgment, June 9, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 272):

1. Under section 186, either a railway company or other parties may apply for leave to the railway company, and possibly in some cases to other parties, to construct a highway.

2. The by-law of the municipality was imperative to establish a highway across the railway against the will of the company.

3. The Surveys Act, R.S.O. 1897, ch. 181, sec. 39, cannot create highways across the land of a railway company or give any right to the applicant to have his streets extended across the railway.

4. A railway company may, with the leave of the Board, lay out and dedicate portions of its right of way for use as highways which the municipality could accept without passing a by-law for that purpose.

5. The applicant is only entitled to an order from the Board authorizing the railway company to lay out and construct such highways. The by-laws of the municipality may be considered an acceptance of such highways.

6. The Board does not enforce specific performance of such agreements. It is not empowered to compel the railway company to construct the highway at the instance of the applicant.

7. As no other court or authority than the Board can legally allow the railway company or any other person to construct the highway, the application should proceed for the purpose of enabling the Board to determine whether it will give this permission.

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Guelph and Goderich Railway Company v. Grand Trunk Railway Company.

This was an application by the Guelph and Goderich Railway Company, under section 137 of the Railway Act, 1903, for authority to take possession of, use and occupy land of the Grand Trunk Railway Company at Goderich.

The land sought to be taken was a portion of strip along the harbour of the town of Goderich upon the waterside of which the Grand Trunk Railway Company had a number of tracks and other improvements. The particular portion applied for was not occupied by the tracks or used in any way by the Grand Trunk Railway Company, but that company claimed that it would be likely to require, in the future, for its business at that point, two additional sets of tracks upon the land in question.

The applicant company desired to take and use not only the portion absolutely required for its tracks, but also a further strip for support.

The Board's Chief Engineer reported that one additional track would meet all the reasonable requirements of the Grand Trunk Railway Company for the future and that the quantity he recommended that the Guelph and Goderich Railway Company be authorized to take was the least that would be reasonably required for its tracks and their support.

Hearing at Ottawa, March 21, 1905.

Judgment, July 17, 1905.

Killam, Chief Commissioner: Railway companies have been granted by the legislature very great powers to take property without the consent of the owners. In the exercise of these powers they frequently cause serious discomfort and inconvenience to individuals, and in many cases deprive parties of property urgently needed for business purposes.

Section 137 of the Railway Act, 1903, places railway companies under liability to be subjected to similar treatment to that which, by the general expropriation clauses of the Act, they are empowered to mete out to private individuals.

Parliament desires that the way should be kept clear for the construction of additional railways, and that existing railway companies should not be allowed to monopolize the lands advantageously situated for railway purposes at any particular point.

The board is empowered by this legislation to authorize one railway company to occupy and use the lands of another, even to the serious loss and detriment of the latter. Due compensation being made therefor care should be taken to avoid such injury, except where the public interest imperatively requires it.

It is difficult to estimate in advance the probable requirements of the distant future. On such applications endeavour should be made to allow for future development; and, if it can be avoided, encroachment upon the property likely to be reasonably required for the purposes of the existing railway should not be authorized. On the other hand, the Board must guard against the use by an existing railway company of an exaggerated estimate of its probable requirements for the purpose of placing at a disadvantage an incoming competitor.

It has not been shown that there is any need of even the one additional track for the purposes of the business of the Grand Trunk Railway Company in Goderich 'If that time should ever arrive the Board, or such body as shall then exercise its present authority, can make such provision as may seem meet.'

Held, that order should be authorizing the Guelph and Goderich Railway Company to take possession, use and occupy the lands estimated by the engineer of the Board to be required for its purpose, such compensation therefor to be paid by that company as shall be fixed by agreement between the two companies, or, in case they cannot agree by the Board.

Held, also, that while the Board has the power to rescind or vary any of its orders, this order should expressly provide that it is subject to be varied or rescinded

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by the Board; thus the parties will have full notice that such change may be made as future developments shall require.

Preston and Berlin Street Railway Company v. Grand Trunk Railway Company.

The Preston and Berlin Street Railway Company applied, under section 137 of the Railway Act, 1903, for authority to take possession of, use and occupy so much of the lands of the Grand Trunk Railway Company's right of way at the crossing of Caroline and Erb streets, in the town of Waterloo, as is necessary for the applicant company's crossing at these points.

The Preston and Berlin Company was incorporated by letters patent under the great seal of the province of Ontario.

Hearing at Ottawa, August 29, 1905.

Killam, Chief Commissioner: Section 137 gives to a company, if the Board authorizes it, the power to take and use the land of a railway company. The words 'the company,' referred to in that section means a railway company within the legislative authority of the Parliament of Canada.

The Board has no jurisdiction to authorize the taking of the lands applied for.

Bertram & Sons' application Branch line.

This was an application by John Bertram & Sons, Ltd., of Dundas, Ontario, for an order directing the Hamilton and Dundas Street Railway Company and the Toronto, Hamilton and Buffalo Railway Company, or one of them, to construct and maintain a branch line from the railway of the Hamilton and Dundas Street Railway Company from Hatt street, in the town of Dundas, to the lands and premises of the applicants.

The Hamilton and Dundas Street Railway Company was incorporated by Act of the legislature of the province of Ontario, and its railway was never declared by the parliament of Canada a work for the general advantage of Canada.

The contention on behalf of the applicants was that section 7 of the Railway Act, gave the Board jurisdiction.

This section provides that 'every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by a special Act passed by the legislature of the province, now or hereafter connecting with or crossing a railway which, at the time of such connecting or crossing, is subject to the legislative authority of the parliament of Canada, is hereby declared to be a work for the general advantage of Canada in respect only to such connection or crossing, or to through traffic thereon.....'

The Toronto, Hamilton and Buffalo Railway Company is subject to the legislative authority of the parliament of Canada.

Hearing at Toronto, December 11, 1905.

Judgment, December 11, 1905.

Killam, Chief Commissioner: These provincial railways are declared to be works for the general advantage of Canada in respect only of the making of the physical connection, the crossing of one by the other, and the through traffic between them. That does not include the making of sidings or the giving of facilities for traffic.

Its purpose is to make those railways authorized by the provincial legislatures subject to the Dominion Railways Act in respect of certain matters only, and not to make the whole of these railways, after they have once been connected, and become in one sense a connection of a Dominion railway, wholly subject to the Act for all purposes.

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Held, that the Hamilton and Dundas Street Railway Company was not within the Board's jurisdiction and that the Board has no power to make an order directing it to give a siding.

The Canadian Pacific Railway Company v. the township of North Dumfries.

Application by the Canadian Pacific Railway Company for authority to construct and operate railway tracks for a term of ten years over the present line of a highway in the township of North Dumfries, Ontario, to close to public traffic a portion of such highway, and to open in lieu thereof a new road.

The company had a spur track running from its main line at Ayr to a mill, and from this spur line sidings were run into a ballast pit, crossing in their course the highway in question.

Arrangements had been made with the owners of lands adjoining the gravel pit on one side of the highway and adjoining the company's mill spur on the other side of the highway, for the acquisition of further lands containing gravel; and the company desired to excavate farther back into the side of the hill to a depth much below the level of the highway, and for that purpose to cut away the soil of the highway a similar depth, and also for a period of fifteen years to divert the highway so that it would run around the company's land and be crossed on one side by the spur leading from the station at Ayr to the mill and gravel pit.

It was objected that the Railway Act did not authorize the diversion of a highway except for the purpose of its being crossed by or carried opposite the main line of the railway.

Hearing at Galt, November 6, 1905.

Judgment.

Killam, Chief Commissioner: Gravel is necessary for properly ballasting a line of railway and keeping it in a proper state of efficiency. The ordinary method of obtaining such gravel for use on a line of railway is to construct spurs or sidings to points where the gravel is to be obtained, and to carry it therefrom by railway locomotives and cars to the line on which it is to be used.

Section 141 shows that the acquisition of lands on which gravel is to be found, and the construction thereto of our spur lines, are without the powers intended by parliament to be exercised by a railway company.

Where the railway company can acquire the lands containing the gravel, and have a right of way thereto, it is not necessary to take the steps prescribed by section 141. For the purposes of such spur line, the railway company can exercise the powers for the diversion of highways given by the Act, as well as for the purpose of the construction and operation of the main line of railway.

In order to the proper excavation of the gravel pit to the depth to which the gravel goes, and for the proper operation of gravel trains, the railway company requires to cut through the highway more than once. A single cutting across the highway of the ordinary width for one track, would be insufficient. In order to keep the highway on its present site in a fit state for travel a long bridge or series of bridges would be necessary.

The railway company, in lieu thereof can properly be authorized to divert the highway at this point for the period of time estimated by it to be necessary for the purpose of exhausting the gravel pit.

By the municipal law of Ontario, the municipality in which the highway is situated is entitled to dispose of gravel in the soil of a public highway, and to maintain trespass against any person taking the same. The railway company does not desire to deprive the municipality of the gravel in the soil of the highway and is willing to restore the site of the highway to a satisfactory condition for public travel at the conclusion of its operations.

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Section 2, subsections (s) and (bb), 118, 119, 141 and 186 of the Railway Act, 1903, referred to.

Held, that the diversion should be allowed upon proper terms for safeguarding the interests of the municipality and of the public.

T. D. Robinson & Son v. The Canadian Northern Railway Company.

This was an application by T. D. Robinson & Son, of the city of Winnipeg, for an order directing the Canadian Northern Railway Company to replace the siding wrongfully taken up by it from the applicants' property immediately adjoining the station and main line and yards of the said railway company in the said city of Winnipeg or any such other part of the applicants' yard as to the Board may seem just; or in the alternative that general delivery of all freights consigned to the applicants be made to the siding at present erected close to the applicants' yards and for such other relief as to the Board may seem just.

The applicants were owners of lands immediately adjoining the main line passenger station and the yards of the railway company in the city of Winnipeg and formerly had a private siding extending from a point of their land into the station yards of the company and connecting with the railway. The siding was constructed and owned by the railway company, who had, however, acquired no title to any part of the land of the applicants on which the said siding was placed.

The railway company later took up the siding, alleging, as a reason, that it was inconvenient for them to continue the use of it to the applicants, and as a result this application was made to the Board.

It was objected, on behalf of the railway company, that the Board had no jurisdiction to make an order as applied for; that the only section of the Railway Act empowering the Board to order the construction of spur lines is 176, and unless the parties should consent to an order made with any other provisions, the Board would be limited to making this order strictly in accordance with the provisions of that section.

Hearing at Winnipeg, September 11, 1905.

Judgment, January 6, 1906.

Killam, Chief Commissioner: In taking from the applicants the sidings and railroad connection formerly enjoyed by them, the railway company deprived the applicants of reasonable facilities which the company should be directed to restore.

The applicants did not apply under section 176 of the Railway Act as owners of an industry for an order to compel the company to construct a branch or spur line. Their lands adjoins the railway yard of the company, and no order was necessary to enable the railway company to construct a line upon its own land to the boundary line between its property and that of the applicants, or to make connection at such boundary line with a siding upon the applicants' land and transfer cars to and from such siding.

The siding and connection, and the privilege of loading cars and delivering goods for carriage on such a siding and of receiving and unloading goods by means thereof, may properly be required as facilities within the Act.

While the Board does not hold that the railway company should be made to furnish similar facilities to every applicant, in view of the previous supply of the same to the applicants and of the company's practice in freely furnishing such accommodation to those engaged in the same and other branches of business, as well as the other facts and circumstances disclosed, these facilities should be regarded as reasonable and proper ones which the company should afford to the applicants.

Under all the circumstances, the discontinuance of the former service was unreasonable. Railway companies should not be allowed to furnish and cut off such facilities capriciously.

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An order directing the railway company, in the general terms of section 253, to afford to the applicants all reasonable and proper facilities for the receiving, &c., would not be sufficient. The authorities cited by counsel for the company were not, in the opinion of the Board, conclusive against its jurisdiction to direct specifically the continuance of previous facilities which had been unreasonably discontinued.

Held, that an order should go directing the railway company to restore the spur track facilities formerly enjoyed by the applicants for the carriage, despatch and receipt of freight in carloads over, to, and from the line of the railway company and the connection for that purpose, between such spur track and a railway siding on the land of the applicants; the company to have the option of constructing the siding on the applicants' land, at the expense of the applicants, or of allowing this to be done by the applicants, who shall bear the expense of making the necessary connection. The company should also have the option of constructing the track from such point on its line, and to such point on the applicants' land, as it shall think proper.

Order issued February 19, 1906.

NOTE.—The railway company appealed to the Supreme Court of Canada from the order of the Board, dated the 19th day of February, 1906, on the question of the Board's jurisdiction to make the order. Appeal dismissed.

Winnipeg Builders' Exchange.

This was an application by the Winnipeg Builders' Exchange for an order directing the Canadian Pacific Railway Company, the Canadian Northern Railway Company, and the Manitoba Railway Company to interchange freight of all grades and classes at the city of Winnipeg.

Hearing at Winnipeg, September 11, 1905.

Killam, Chief Commissioner: Railway companies are not entitled, under sections 214 and 253 of the Railway Act, 1903, to distinguish between different kinds of traffic by refusing to certain commodities the facilities for interchange which are given in respect of other commodities, but in view of the congested state of traffic on railways in Manitoba at that time, the Board did not think it proper to direct that any change be made immediately in the practice therefore followed in that respect.

Held, that an order should issue directing that on and after the 1st day of January, 1906, all freight in carloads shall, when carried over the railway of the Canadian Pacific Railway Company or the Canadian Northern Railway Company to the city of Winnipeg, or the town of St. Boniface, or delivered to such other company at Winnipeg or St. Boniface for carriage, be transferred by the one company to the other in the original car at some point of junction of their lines in the vicinity of St. Boniface or Winnipeg, when so consigned.

In view of the condition of the line along the west side of the Red river, commonly known as the 'transfer track,' and the total insufficiency of that line for the interchange of such traffic, the railway companies were left to make the interchange at such points as circumstances appeared to them to warrant.

The Canadian Pacific Railway Company v. The Grand Trunk Railway Company.

This was an application by the Canadian Pacific Railway Company for an order directing the Grand Trunk Railway Company to afford proper facilities for the interchange of traffic between the said companies over the branch authorized by order of the 6th of July, 1904, to be constructed by the Grand Trunk Railway Company from a point on its line between London and St. Mary's to the line of the Canadian Pacific Railway Company, between London and Toronto, and fixed the amount to be charged for such interchange of traffic and the interswitching of cars over the said branch.

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The only connection at or near London, between the lines of the two railways, is by this branch.

The Grand Trunk Railway Company's lines in and through the city of London were in evidence long before the Canadian Pacific Railway was constructed. It had extensive terminal properties, including a large number of sidings to various business and manufacturing premises and an extensive business at that point. The terminal facilities and business of the Canadian Pacific Railway Company at London, on the other hand, were comparatively small.

By means of this branch the Canadian Pacific Railway Company was given direct access to a large number of business premises in London, which it did not previously have.

Urged on behalf of the Grand Trunk Railway Company, that as the proposed connection would be much more advantageous to the Canadian Pacific Railway Company than to it, the Grand Trunk Company should receive much the larger proportion in the division of rates for traffic interchanged between the two companies—much greater than that which would be a fair remuneration for the mere service rendered in the transportation of cars over this branch and its London terminal lines and the loading and unloading of the same.

Secs. 253, 266, 267 and 271 of the Railway Act, 1903, referred to.

Hearing at Ottawa, June 20, 1905.

Judgment, July 16, 1905.

Killam, Chief Commissioner: The provisions of the Railway Act which require railway companies thus to interchange traffic at connecting points are introduced, not for the purpose of benefiting one railway company at the expense of another, but solely in the interest of the public. The law cannot recognize anything in the nature of a good-will of the business of either railway company thus affected, for which another should give compensation. The division between railway companies of the joint rates for traffic thus interchanged should be made upon the principle of giving reasonable compensation for the services and facilities furnished by the respective companies in respect of the particular traffic interchanged, and not by reference to the magnitude of the business of the company, or the other particular points, or the respective advantages which each can offer to the other there, or a comparison of the loss which the one is likely to sustain with the gain likely to accrue to the other from the giving of the facilities which the law requires.

The Board cannot properly deal with the question of the division of such rates or the allowance of charges for switching in a general way, and by reference to all the points in Canada where the railways may connect. In each case the nature and value of the service to be rendered and the facilities to be used must be taken into consideration.

The Grand Trunk Railway Company being obliged to furnish, for the carriage over its portion of the continuous line, for the receipt and delivery of the same, and for the loading and unloading of cars for the purpose, the same facilities as in respect of traffic passing over its own lines only or transferred to or by it at distant points of the Canadian Pacific Railway system, the apportionment of rates should be made upon this basis.

Held, that order should go requiring the Grand Trunk Railway Company to afford all reasonable and proper facilities for receiving, forwarding and delivering all traffic offered to it in cars wholly or partially loaded for passage over the branch in question and its lines connected therewith and of unloaded cars so offered and of freight offered to it for carriage to and over the lines of the Canadian Pacific Railway by the medium of the said branch, and for the interchange by means of the said branch of traffic between its lines and those of the Canadian Pacific Railway Company, as well as between the lines of the Canadian Pacific Railway Company and those of other railway companies connecting with the lines of the Grand Trunk Railway Company,

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and providing that the rates to be charged for such traffic shall be those provided for by any joint tariffs in existence between the railway companies interested, and, in the event of there being none, the rates charged by the Grand Trunk Railway Company between the same points, and, in the absence of either the rates charged by the Canadian Pacific Railway Company between the same points; also, that in the division of rates for such traffic, the Grand Trunk Railway Company shall be entitled to charge and receive the following tolls for switching freight and live stock traffic, in carloads, from and to the Canadian Pacific Railway at or near London by means of the said branch, namely:—

(a) Between the point of connection of the Grand Trunk Railway interchange track and the Canadian Pacific Railway siding, and all delivery tracks and siding owned or controlled by, or connecting with, the lines of the Grand Trunk Railway between and including the Canadian Packing Company's plant on the east and the London Street Railway interchange, known as Springbank siding, on the west, except as provided in clause (b), one cent per one hundred pounds, but not less than five dollars per carload, for each complete haul in either direction; no extra charge to be made for the movement of the empty car in the opposite direction.

(b) For the intermediate switching of through or joint freight and live stock traffic between the point of connection designated in clause (a) and the point of connection of the Grand Trunk Railway with the Père Marquette Railroad, three dollars per car, in either direction, regardless of the weight; no extra charge to be made for the transfer of the returning empty car.

Held, further, that the order should also provide that all devices, such as free or assisted cartage or cartage allowances intended to equalize the facilities of the respective railways of the Canadian Pacific Railway Company and the Grand Trunk Railway Company for the collection and delivery of freight at or near London, except the customary system of cartage published in the freight tariffs of the respective companies be prohibited and that all preference, prejudice and discrimination in such cartage system be prohibited.

Order dated July 25, 1905, issued.

NOTE.—An appeal to the Supreme Court of Canada from the Board's order of July 25, 1905, now pending.

Walker et al v. The Toronto and Niagara Power Company.

Two applications were made to the Board, one by John H. Walker and William Tuck, the other by James W. Alway, for an order rescinding an order of the Board authorizing a deviation from the located power line of the Toronto and Niagara Power Company, previously approved by the Board.

By order dated March 29, 1904, the board approved the location of the line of the Toronto and Niagara Power Company from 3 to 38 miles from the Niagara river. This included the line across lots 7, 18 and 19, in the 3rd concession of the township of Grimsby. Each of the three applicants is the owner of one of these lots.

On April 15, 1905, the board authorized a deviation from the located line, as approved. This was the order sought to be rescinded. The new plans showed a different location, beginning at lot 15, in the 3rd concession of Grimsby, and extending across (among other lands) lots 17, 18 and 19, at an approximate distance on these three lots three-quarters of a mile from the previous location across them.

The applications to rescind the order of April 15, 1905, were based on the grounds that the Railway Act did not permit a double expropriation, and that the company was in reality not deviating from the original line sanctioned by the board, but was constructing an additional or branch line in connection with its original line.

Hearing at Toronto, November 7, 1905.

Judgment, April 12, 1906.

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Killam, Chief Commissioner (5 Can. Ry. Cas., 190): Held (1) that the company's powers under its Act of incorporation (2 Edw. VII., Ch. 107, Dom.) were not exceeded by the construction of one line, as in the case of a company authorized to build between two termini or any specified number of lines.

(2) That the cases relating to deviations by railway companies do not apply.

(3) Without considering the jurisdiction of the board to make the orders respecting location plans, the applications must be refused.

The Algoma Central and Hudson Bay Railway Company v. Grand Trunk Railway Company.

This was an application by the Algoma Central and Hudson Bay Railway Company for an order, under sections 266 and 267 of the Railway Act, 1903, to compel the Grand Trunk Railway Company to enter into a joint tariff with it upon traffic partly over the Grand Trunk Railway and partly by a line of steamships of the applicant company.

The Algoma Central and Hudson Bay Railway Company operates a line of railway from Sault Ste. Marie northwesterly for about 70 miles, and also a line of railway from Michipicoten harbour, on Lake Superior, for a short distance. It uses and operates a fleet of steamers, passenger and freight, plying between Sault Ste. Marie and Michipicoten harbour, on the one hand, and points on Lake Huron and other inland waters reached by the Grand Trunk Railway on the other.

Section 276 of the Railway Act, as making the provisions of sections 266 and 267 extend to the traffic mentioned, relied upon.

Hearing at Toronto, April 17, 1906.

Judgment, April 26, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 196): Sections 253 and 271 relate solely to railway traffic, and not to traffic between a line of railway and water line.

A line of steamships operated by a railway company running to ports reached by the line or lines of another company does not constitute therewith a continuous route within the meaning of sections 266 and 267 of the Railway Act, 1903.

Application dismissed.

The City and County of St. John v. The Canadian Pacific Railway Company.

Application by the municipality of the City and County of St. John, New Brunswick, for an order under section 187 of the Railway Act, 1903, directing the Canadian Pacific Railway Company to construct and maintain suitable gates over a street in the village of Fairville, and one in the village of Milford, where the Canadian Pacific Railway crosses these streets.

Hearings at St. John, April 18, and Ottawa, November 22, 1905.

Judgment, June 5, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 161): The railway company was ordered to construct and maintain gates over the street crossing in Fairville and to install an electric bell at the crossing in Milford.

Held, that the board had jurisdiction, under section 47 of the Railway Act, 1903, to order the municipality to contribute to the expense of protecting its highway crossings, as in the case of municipalities in other provinces. *City of Toronto v. Grand Trunk Railway Company*, 37 S.C.R. 232, referred to.

By later order of the board, dated June 14, 1906, the cost of installing, operating and maintaining the gates of the Fairville street crossing was directed to be borne by the railway company, the wages of the day and night watchman employed at this crossing to be paid one-half by the municipality and one-half by the railway com-

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pany; the cost of installing, operating and maintaining an electric bell at the Milford crossing to be borne by the railway company.

Re Apportionment of Cost for Protection of Highway Crossings.

Judgment of Chief Commissioner in the Almonte street crossings' application (June 15, 1906) '..... the usual practice of the Railway Committee of the Privy Council, which, before the constitution of the Board of Railway Commissioners, exercised jurisdiction respecting the protection of highway crossings, was to divide the cost of the protection of previously existing highway crossings by railways between the municipalities and the railway companies; that such has been the practice of this board, although it is recognized that no fixed rule can be laid down for determining whether the municipality should share the expense, or in what proportion it should do so. In a recent case, the jurisdiction of the Railway Committee to apportion such expense upon the municipality was upheld by the Supreme Court of Canada.

Niagara, St. Catharines and Toronto Railway Thorold Street Crossings.

This was an application by the Niagara, St. Catharines and Toronto Railway Company, under section 186 of the Railway Act, 1903, for leave to cross certain streets in the town of Thorold, in the township of Thorold, with its line of railway.

Hearing at Hamilton, May 8, 1906.

The town of Thorold opposed the application, contending that the applicant company's railway is a street railway or tramway, or is operated or to be operated as a street railway or tramway, and that leave could not be given to carry it across streets in the town without the consent of the town by by-law. Upon the evidence, it did not appear that the proposed branch line was a street railway or tramway, or intended to be operated as such. The applicant company's main line was constructed upon the company's right of way and did not run along the streets in Thorold, nor did its cars stop at street corners to take up or let off passengers, but only at its own stations.

In the year 1902, by authority of the parliament of Canada and of the legislature of the province of Ontario, the applicant company acquired the property and undertaking of the Port Dalhousie, St. Catharines and Thorold Electric Street Railway Company, Limited, a company incorporated under the authority of the legislature of the province of Ontario, for the construction and operation of an electric street railway, and the applicant company now operates the line of that street railway in and upon the streets of Thorold and elsewhere; but the branch line authorized by order of the board, and which the applicant company desired to carry across these streets, was to be taken from the main line of the applicant company's railway, and not from the street railway system.

Judgment, Chief Commissioner, June 19, 1906.

The prohibition in section 184 of the Railway Act, 1903, is against the authorization of the operation of a street railway or tramway along a highway. In the present case the application is for crossings only. In one case, the crossing is to be at an angle which would force the railway upon the street for a considerable distance, but it seems to be none the less a crossing. The evident intention of the Act is to require railway companies proposing to operate a street railway system, and to use the streets as their right of way, to procure the assent of the municipality for that purpose. The Act authorizes a company to carry its railway across streets by leave of the board, and the only qualification is that the consent of the municipality is required where the railway is a street railway or tramway which runs along, and not merely across, the street.

Held, that the application should be granted.

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Re The MacGregor-Gourlay Co., Limited, Complaint.

This was a complaint by the MacGregor-Gourlay Co., Ltd., respecting the obstruction of South Water street, in the town of Galt, alleging that the Grand Valley Railway Company had raised its tracks from ten inches to two feet above the level of the street, in contravention of an agreement between the town and the railway company, entered into September 13, 1905.

Under this agreement, the company was required, amongst other things, to—

(a) macadamize 2 feet in width of the roadway where practicable—such work to be done in a manner satisfactory to the board of works, who were to have the power to direct what portion of the roadway of 36 feet in width should form the 22 feet to be macadamized;

(b) lay and maintain the tops of the surface of the ties so as to be flush with the adjoining the surface of the street; but where the track should be laid in or about the centre of the street, it was required to lay and maintain its rails so that the top thereof should be flush with the adjoining surface of the street.

The agreement also provided that any disputes were to be determined by the board of works of the town. The board caused its engineer to make an inspection of the line of the Grand Valley Railway Company along South Water street, and he reported that ‘from the end of the bridge across the Grand river to the south end of the property owned by the Beers Tannery, the track along Water street is from 4 inches to 12 inches above the level of the street, so that access to the property on the west side of the street is cut off.....’

The engineer expressed the opinion that the company should put its tracks down to the level of the street, so that the owners of the property on the west side of the street might have unobstructed access to their property.

Under direction, the company was asked to advise the board whether it had since complied with the terms of the agreement between it and the town, and the clerk of the town notified that this had been done, with the additional notification that, under sections 186 and 187 of the Railway Act, 1903, the board has jurisdiction to direct that such works be executed or measures taken as appear to the board best adopted to remove or diminish the danger or obstruction arising or likely to arise from the railway company's tracks; and that the board is not bound in this respect by the decision of the board of works; but may, if the civic authorities allow the railway and the street to remain in such a condition as unduly to obstruct traffic, direct the town, instead of the railway company, to take the necessary measures for protection of the public.

June 25, 1906.

In re Cockerline and Guelph and Goderich Railway Company.

Robert J. Cockerline applied to the board for an order directing the Guelph and Goderich Railway Company to make him an undercrossing between the parts of his farm severed by the railway line. The facts are specifically set forth in judgment of the Chief Commissioner below.

Hearing at Stratford, May 28, 1907.

Judgment, June 26, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., pp. 3, 4 *et seq.*): The board made an order upon the advice of its engineer, directing the Guelph and Goderich Railway Company to provide for R. J. Cockerline three farm crossings over its line through his farm, two level crossings and one undercrossing. The railway company has applied to have this order set aside on the ground that the board has no jurisdiction to require it to make a farm crossing under its railway.

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Section 198 of the Railway Act, 1903, requires that,

‘Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes. In crossing with live stock, the same shall be in charge of some competent person, who shall use all reasonable care and precaution to avoid accidents.’

In the case of *Armstrong v. James Bay Railway Company*, 7 O.W.R. 75, 12 O.L.R. 137, Sir Wm. Meredith, C.J., expressed the opinion that the first subsection of section 198 did not apply to a passageway under the railway track; he referred particularly to the provision requiring live stock, when crossing, to be in charge of a competent person, as indicating this view.

In this connection, it seems well to refer to section 191 of the Railway Act of 1888, by which

‘Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway by farmers’ implements, carts and other vehicles.’

That required crossings to be made ‘convenient and proper’ for the purposes specified.

In *Reist v. Grand Trunk Railway Company*, 6 U.C.C.P. 421, Draper, C.J., expressed the opinion that, under 14 and 15 Vict., ch. 51, sec. 13, requiring a company ‘to erect and maintain’ (among other things) ‘farm crossings for the use of proprietors of lands adjoining the railway,’ the expression ‘farm crossing’ might include ‘a passage across and upon the railway itself—a crossing at grade, or a bridge over, or a tunnel under the railway,’ adding, ‘I observe nothing in the Act which necessarily excludes either of these interpretations.’

The language of the first subsection of section 198 is much changed. The crossings are required to be ‘convenient and proper for the crossing of the railway for farm purposes.’ In *Armstrong v. James Bay Railway Company*, 7 O.W.R. 715, 12 O.L.R. 137, the learned Chief Justice indicated a doubt as to the power of the Board, under the second subsection of section 198, to require a company to provide an undercrossing.

Apart from the reference to live stock, in the first subsection, I should feel no difficulty in agreeing with the view taken by Draper, C.J., in *Reist v. Grand Trunk Railway*, and in applying that to the construction of section 191 of the Act of 1888.

In construing section 198 of the present Act, we should, I think, start from the position that the previous law required undercrossings, if other convenient and proper ones could not be obtained. Subsection 2 is wide enough in its terms to include undercrossings. It gives the Board power to order a company to provide a suitable farm crossing, and to order and direct how, when and where it shall be constructed.

The principal argument against that view is that the word ‘across’ means ‘over,’ or ‘on the surface of.’ In Webster’s dictionary the word is defined as meaning ‘from side to side,’ ‘athwart,’ ‘crosswise,’ ‘quite over.’ The latter expression certainly does indicate something above, but the other equivalents do not. Usually, resort must be had to the context. We may go across a river upon a bridge, by boat, by swimming, or by a tunnel underneath the water. A net or a rope may be properly said to be stretched across a river although underneath the water. The word ‘across’ is equally applicable in any case.

In section 184 of the Railway Act, 1903, authority is given to carry a railway ‘upon, along or across’ a highway.

By section 186 authority is given, on any application for leave to construct the railway ‘upon, along or across’ a highway, to order it to be carried over or under the highway. The section makes it clear that in crossing, the highway may be placed under the railway, or the railway under the highway; but the undercrossing and the overcrossing equally are included under the expression ‘across.’

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Section 197 of the Act speaks of drainage or drainage works 'upon and across the property of the landowners,' and 'upon and across the railway and lands of the company.' Having reference to the subject, drains underneath the property or railway would naturally be considered as included, and this is obvious by the latter part of the section providing that 'no drainage works shall be constructed or reconstructed upon, along, under or across the railway or lands of the company's &c.

In the present case, the railway is carried across Mr. Cockerline's farm upon a high embankment constructed for the purpose, any crossing over which would be inconvenient. I do not think that the so-called level crossings alone would be considered to be 'suitable.'

Some attempt was made, upon the hearing of the application, to show that Cockerline, in conveying the right of way to the railway company and agreeing upon a price therefor, intended to release the right to a farm crossing, or farm crossings, and to accept compensation for their loss.

To my mind, the evidence establishes directly the contrary, and that Cockerline acted under assurances calculated to lead him to believe, and which did lead him to believe, that his application to the Board for an undercrossing would not be prejudiced by the execution of the conveyance and acceptance of the purchase money.

Under all the circumstances, it appears to me that the order should be affirmed, with costs to be fixed by the secretary of the board.

Re Complaint of Staunton's, Limited, Toronto.

This was a complaint by Staunton's' Limited, of Toronto, against the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, alleging that the freight rates charged by these companies on wall paper shipped from Toronto to points in eastern Ontario and in the provinces of Quebec, New Brunswick and Nova Scotia, were excessive and discriminatory in comparison with the rates in effect upon similar merchandise carried in the opposite direction; and complainants applied for an order disallowing the present east-bound rates on their goods and restoring those in effect prior to November 15, 1905.

Hearing at Toronto, May 9, 1906.

Judgment, Chief Commissioner, June 28, 1906.

The Board considers that the long continued existences of the former tolls affords strong evidence of their reasonableness, and that it does not appear that there has been any change of circumstances, or that there is any sufficient reason for the changes recently made in those tolls; that the charging of higher tolls for the traffic in question from Toronto eastward than are charged for similar traffic from Montreal and other points westward constitutes an unjust discrimination against the Toronto shippers, and that these tolls should be equalized.

Order of Board, July 31, directing that the said companies reduce their tolls for the said east-bound traffic from Toronto to Montreal to those in the tariffs for similar west-bound traffic between the same points; that the tolls to Montreal be not exceeded to Ottawa, nor to intermediate points; and that the tolls to points east of Montreal be reduced by the amount of the said reduction to Montreal. Also that the tariffs to be made under the order come into force not later than September 10, next.

P. C. Pathiarche and Burlington Canning Co. v. The Grand Trunk Railway Co. and The Hamilton Radial Electric Street Railway Co.

This was an application, under sections 253 and 271 of the Railway Act, 1903, to compel an interchange of traffic between the two railways.

The Hamilton Radial Electric Street Railway Company was incorporated by Act of the legislature of the province of Ontario. Its undertaking and railway have

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never been declared by the parliament of Canada to be a work for the general advantage of Canada, or for the advantage of two or more of the provinces.

The Grand Trunk Railway was, by the Railway Act of 1888, declared a work for the general advantage of Canada, and subject to the legislative authority of the parliament of Canada.

The Act of 1888 was repealed upon the coming into force of the Railway Act, 1903. By section 7 of the latter Act.

'Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by a special Act passed by the legislature of any province, now or hereinafter connecting with or crossing a railway which, at the time of such connection or crossing, is subject to the legislative authority of the parliament of Canada, is hereby declared to be a work for the general advantage of Canada in respect only to such connection or crossing or to through traffic thereon or anything appertaining thereto, and also to the provisions set forth in this Act relating to offences and penalties, navigable waters and criminal matters, and this Act shall apply to that extent only.'

Some years before the coming into force of the Railway Act, 1903, a physical connection was made between the two railways, but no order was obtained authorizing such connection either under section 173 of the Railway Act, 1888, or section 177 of the Railway Act, 1903, although a crossing had been authorized by the Railway Committee of the Privy Council in 1897.

Hearing at Hamilton, May 9, 1906.

Judgment, June 28, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 200): Held, that parliament has the incidental power to determine the terms upon which a railway, not otherwise subject to its legislative authority, may connect with or cross one that is so subject, and the obligations between the companies concerned.

British North America Act, section 91 (10) and (c), and section 92 (29), sections 306 and 307, Railway Act, 1888, and section 7, Railway Act, 1903, referred to.

Held, that such connection being illegal, no order should be made. An application to authorize the connection, under section 177 of the Railway Act, 1903, must first be made.

The Guelph and Goderich Railway Co. v. The Guelph Radial Railway Co.

The Guelph and Goderich Railway Company applied under section 177 of the Railway Act, 1903, for leave to construct and operate its railway across the railway of the Guelph Radial Railway Company on the Elora road, outside the limits of the city of Guelph.

The Guelph and Goderich Railway Company was incorporated by an Act of the parliament of Canada, 4 Edward VII., chapter 81, assented to June 6, 1904. A plan showing the location of its line across the Elora road, outside the city of Guelph, was approved by the Board on July 2, 1904, filed in the Registry Office on July 8, 1904, and notice of the proposed location published in local newspapers in August, 1904.

This application was filed on August 16, 1905, and an order was made giving leave to the Guelph and Goderich Railway Company to cross the highway at that point, on October 16, 1905.

On the 25th May, 1905, by 5 Edward VII., chapter 91, the Guelph Radial Railway Company was empowered to build and operate an extension of its railway on the Elora road, outside the city of Guelph. Its location had been authorized by a by-law passed by the council of the county of Wellington on June 4, 1904.

Hearing at Stratford, December 4, 1905.

Judgment, July 5, 1906.

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Killam Chief Commissioner (5 Can. Ry. Cas., 180): Held, that the location and operation of the Radial Railway Company had, under the circumstances, become authorized on May 25, 1905; and was prior to that of the applicant company, and that, following the usual course, the applicant company must be at the expense of the crossing and maintenance of any necessary protection.

Ruling v. Erroneous Rate Questions.

Chief Commissioner, July 31, 1906:—

The Board is appointed to enforce the Railway Act—not ordinary contracts. In my opinion, the Board should recognize as valid only the tolls set out in the tariffs authorized by the Act, and it should not assume to interfere with charges made in accordance with such tariffs on the plea that lower rates were quoted by a company's agent. Such a practice would open the door to rebates and preferences.

If parties have any right to relief in such cases, they should seek it in the ordinary courts on the ground of breach of special contract or misrepresentation.

The Act giving the Board jurisdiction respecting rates of express companies does not apply to past transactions, and the functions of the Board will be confined to the approval of tariffs for the future and dealings with tolls under them.

Chief Commissioner, September 19, 1906.

Re Grand Trunk Pacific Right of Way at Clover Bar, Alberta.

Complaint was made to the Board respecting the methods adopted by agents of the Grand Trunk Pacific Company for the acquisition of lands for the company's right of way.

Held, Chief Commissioner, October 9, 1906, that the subject-matter of the petition is one over which the Board has no jurisdiction; that, under the Railway Act, 1903, upon approval of its location plans, a railway company is entitled to acquire its right of way either by voluntary conveyance for the owners of the necessary lands or by expropriation proceedings. The Act gives to the Board of Railway Commissioners no authority respecting either method of acquisition of these lands. If parties are induced by unlawful misrepresentation or redress to part with their lands on unfavourable terms, they must seek their redress in the ordinary tribunals. The proceedings for expropriation are set out in the statute, and the Board is given no authority over either the procedure or the amount of the compensation.

Re Postal Cars.

Judgment, Chief Commissioner, October 10, 1906.

I am not at all clear that the Board has jurisdiction to compel railway companies to alter their ordinary practice in regard to the respective locations of mail and baggage cars. Possibly the jurisdiction may exist under section 212, subsection 2, of the Railway Act, 1903; but, even if there is such jurisdiction, I do not think that the board should interfere with the discretion of railway officials upon this point.

It is not easy to determine whether there is materially greater danger to parties in the first than there is to those in the second car.

Even if greater consideration should be given to those who are not employees of the railway company, there does not appear to be any reason for giving preference to mail clerks over the employees of express companies.

a *In re Highway Crossings.*

Statement of facts taken from judgment of Chief Commissioner:

During the official trip of the Board in western Canada in the summer of 1906, a number of applications were brought before it in respect of street crossings over

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railways in the province of Alberta. One of these related to a large number of crossings in the city of Calgary over the line of the Canadian Pacific Railway Company. This was settled by agreement between the city and the railway company, and an order, in conformity with the agreement, was issued later.

Another was an application by the town of High River for an order directing the Canadian Pacific Railway Company to provide and construct a suitable highway crossing where its railway intersected Fourth street in that town. The application alleged that there was no railway crossing between the Calgary and Macleod trail and Seventh street, according to a plan which showed Fourth street as lying in the intermediate space, and that the opening of Fourth street was necessary for the proper enjoyment of the use of the streets of the town and for the safety of the inhabitants.

A third was the application of the town of Olds for leave to construct certain highways across the railway of the Canadian Pacific Railway Company's Calgary and Edmonton branch at Olds, to join and connect certain main streets lying on each side of the railway.

While this application alleged the previous existence of certain crossings upon the lines of certain main streets, known as Second and Third streets, is further alleged that the only legal crossing which the town had at the time of the application was at the extreme north end of the town, which was north of either of the streets named.

A fourth was that of the town of Didsbury, for an order, 'under the provisions of the Railway Act, 1903, respecting highway crossings, being sections 184 to 191, inclusive, and particularly under section 187, directing the Canadian Pacific Railway Company to construct and provide a suitable crossing, and to maintain the same perpetually where the continuation of Hespeler street, in the said town of Didsbury, if continued easterly, without the obstruction being placed thereon by the Canadian Pacific Railway Company, would cross the said railway company's right of way.'

The application alleged that Hespeler street in Didsbury, 'for some years past, and until it was obstructed by the said Canadian Pacific Railway Company on or about the 1st day of August, 1906, was a highway, and was used as such by the public.' It further alleged an express agreement between the railway company and the town for making Hespeler street a perpetual highway across the railway, and that the town had, at the request of the railway company, improved Hespeler street upon the company's right of way, and had expended a considerable sum of money in doing so; that the railway company had placed a large quantity of earth upon Hespeler street where it crossed the company's right of way, and that the town had used and employed this earth in further grading and improving the street at the request of the railway company; and that the railway company had indicated by a sign that there was a highway crossing over the railway at that point; and setting forth other circumstances as showing the importance, in the public interest, of having a highway crossing at Hespeler street.

The application further alleged that the railway company had recently obstructed the crossing at Hespeler street and deprived the public of the use and enjoyment thereof.

A fifth application was made by the village of Leduc for a street crossing over the Calgary and Edmonton branch of the Canadian Pacific Railway Company at Mill street. In answer to this application, the Canadian Pacific Railway Company submitted a plan of the town site and existing crossings at Leduc, pointing out that 'from the plan it will be seen that there is already a crossing at the point known as "Edmonton Trail," another nearly opposite Main street, and a third about 1,600 feet south of the latter.'

Upon examination of the locality by an engineer of the Board, he reported that he had inspected the site of the proposed crossing in company with the overseer and principal business men of the village, and that 'the overseer and the others agreed

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that, if the village has to build and maintain the crossing, it would be just as well for them to build a road along the east side of the railway from Mill street north to Main street, and cross there where there is already a crossing.

Subsequently, the village presented to the Board a formal petition with reference to the crossing at Main street, setting out that what was and is sought was the making permanent of a crossing at Main street, which crossing is and always has been the most commonly used access to the railway station.

In the case of High River, negotiations took place between the town and the railway company which did not result in a complete agreement, but served only to indicate the respective positions of the parties. The town desired, in addition to the crossing at Fourth street, to have the passenger station of the company removed to the neighbourhood of that crossing, and offered, in consideration of these advantages, to pay a certain sum towards the expense of such removal, and to procure for the railway company a piece of land for the prolongation of its yard at the town in a southerly direction. The company claimed to be bound by an agreement with a private party which prohibited it from removing the station to the desired position, and objected to the establishment of a street crossing at Fourth street, but offered to allow a crossing to be established at Third street and to remove the station to the neighbourhood of that crossing, provided that town would procure for the company the proposed lands, and would close the admittedly existing highway crossing over the railway at Seventh street. The town refused to accept the condition for the closing of the crossing at Seventh street.

In the case of the town of Olds, the railway company offered a crossing at Second street, with an extension of Railway street (which runs parallel with the railway) to Seventh street, and another crossing at Seventh street. The town was willing to limit its request to a crossing at Third street and one at Seventh street, with the extension mentioned.

Didsbury is not a town, but a village municipality, established under the ordinances of the Northwest Territories. Counsel for the village claimed that a public highway had been established at Didsbury by dedication of the railway company, after the construction of the railway. It was not suggested that any public highway had existed at that point before the railway was constructed. The contention on behalf of the railway company, was that it was incompetent for the company to establish a highway by dedication without leave of the Railway Committee of the Privy Council under the legislation preceding the Railway Act, 1903, or of the Board since its establishment. Counsel for the village argued that the railway company could so dedicate without leave.

In the case of the Leduc application, which is also a village established under the ordinances of the Northwest Territories, counsel for the railway company submitted an offer to allow a crossing to be authorized at Main street, as well as another at Douglas street, in the village, upon the condition that it should be ordered that, in case of any protective measures or appliances being required at the crossing in the future, the cost thereof should be borne by the village. It was claimed, on behalf of the village, that it had for a long time a crossing at Main street, and that the village ought not to be now bound to bear such expense.

Judgment, Chief Commissioner Killam, November 6, 1906.

..... In connection with these cases it appears to be desirable to consider the functions of the Board with respect to railway and highway crossings. Section 184 authorizes the Board to grant leave to a railway company to carry its track upon, along, or across an existing highway. Section 186 lays down a method of procedure 'upon any application for leave to construct the railway upon, along or across an existing railway,' and authorizes the Board to grant such application upon such terms and conditions as to protection, safety, and convenience of the public as it may deem expedient, or to order that the highway be carried over or under the railway

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and works to be executed or measures taken to remove or diminish the danger or obstruction arising or likely to arise therefrom; and section 187 confers upon the Board the power, in the case of a railway already existing upon, along, or across a highway, to make any order in respect thereto as in the previous section provided.

Other provisions of the Act impose upon the railway company specific duties with reference to highways, or assign to the Board certain specified powers with respect thereto; and the Board, under the general jurisdiction given by section 3, is empowered to compel railway companies to observe the duties cast upon them by such provisions of the Railway Act.

As I have previously had occasion to point out, the Board is a creature of the statute, and has only the powers given to it by statute. While constituted a court for the purpose of exercising the jurisdiction conferred upon it, the Board is not a court for the determination of all questions arising between the public or individuals and a railway company. The Board has no general jurisdiction to determine whether a public right of crossing over a railway exists; but, in cases in which it is called upon to exercise the powers specifically conferred upon it with respect to highways, or its jurisdiction to enforce performance of the duties of railway companies with respect to highways, it has incidentally, the power to inquire and determine whether, in fact, a right of crossing does or does not exist at a particular point.

For two or three years the public were in the habit of crossing the railway upon the line of Hespeler street in Didsbury, and this was facilitated by the grading of a street line upon the company's right of way outside the rails and by planking at and between the rails. This work has been undone and the crossing so obstructed that the public cannot now cross. It appears to me, that, if there is a public right of crossing at that point, the Board has jurisdiction, under sections 186 and 187 of the Act to direct that such measures be taken as to enable the public to cross there safely and conveniently, and that, for the purpose, the Board has jurisdiction to determine whether the right of public crossing exists.

The Railway Act, 1903, nowhere prohibits in express terms the construction of a highway, or the giving of a public right of crossing over a railway, without the leave of the Board; but it appears to assume that, for some purpose, such leave is necessary. I take it to be assumed that, without some provision therefor, a municipality or other body having power under the local law to open a highway across private property without the consent of the owner, could not open such across property dedicated by authority of the parliament of Canada to the purposes of a railway; and it appears to me that the provisions of section 186 are intended, in part, to afford the means of enabling such municipality or body to do this where the public interests require it. But, in my opinion, this clause enabling the Board to give leave for the construction of a highway across a railway, was not intended to provide a means by which private individuals, or bodies not otherwise possessed of power to open highways, could do so.

In this connection the question naturally arises whether the steps to open such a highway must be taken by the municipality or other body in accordance with the law generally applicable to the opening of highways, and whether compensation has to be given and determined according to such law.

I have never hitherto been called upon definitely to determine that question, which is by no means a simple one. Hitherto, without careful consideration, I have expressed an inclination to the view that the local law is applicable. On further consideration, however, I doubt this; but, in view of the fact that the point is, so far as I know, wholly unsettled by authority, and of my having previously used expressions which may have induced parties to consider the question to be settled so far as this Board is concerned, I would be ready to receive any argument upon the point which any one might desire to offer. It is very probable that parliament intended the whole matter to be settled by this Board, and all the conditions in respect of

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compensation, as well as of procedure, construction and precautions, to be determined by the Board. Section 36 gives to the Board general power to impose terms in making an order, and the provisions of section 47 appear capable of application to such a case without undue straining of language. The Board has already decided that it is not bound to grant compensation to one railway company for the crossing of its line by the railway of another company; and the same principle might be applied in cases of highway crossings.

But it should be observed that the power of the Board in this respect is to give leave. The Board is not authorized to direct or compel railway companies to construct or make highways across their lands where a public right of crossing does not already exist by law, though it may give leave to a company or to some other bodies, on some terms, to do so.

In the Didsbury case, counsel for the railway company cited the remarks of Hon. Mr. Blair, when Chief Commissioner, in an application made by the city of Calgary, in 1904, reported in volume 10 of the reports of proceedings of the Board, at page 457, as follows:—

‘Hon. Mr. Blair: Your legal position I cannot think would be very much improved or strengthened by reason of what has transpired; without an order of the Railway Committee of the Privy Council, or without an order of this Board, you have no legal right whatever to cross those tracks, notwithstanding or no matter what may have been the understanding between you, or the agreement between you, or the user which has taken place, and no matter what dedication may have been made. The matter of dedication of a highway there would be a totally distinct and separate thing from the legalizing of the use of the right of way, or that portion which is occupied by the tracks of the railway company for the purposes of a public highway. You have got to have that authority or else you have no legal ground upon which to stand.’

Upon a previous citation in another case of these remarks, I expressed myself as being inclined to the same view. Counsel for the village, however, argued strongly for the power of the railway company to dedicate a portion of its right of way for use as a public highway without leave of the Railway Committee or of this Board. Upon a reference to Canadian authorities I do not find that the contention of the railway company is as well supported as I was inclined to think at the time of the hearing. *Guthrie v. Canadian Pacific Railway Company*, 31 S.C.R. 155, and *Grand Trunk Railway Company v. Valliear*, 2 Can. Ry. Cas. 45, 3 Can. Ry. Cas. 399, 7 O.L.R. 364, related to private rights; and *Grand Trunk Railway Company v. Valliear* was so distinguished in the Court of Appeal.

The expressions used by Hon. Mr. Blair and myself may have led counsel for the railway company to omit careful examination or argument of the question; and counsel for the village did not discuss the Canadian cases or the terms of the Railway Acts. It appears to me desirable, therefore, that before the Board makes a definite decision upon this important question, an opportunity should be given to the parties to present such further arguments in writing as they may desire; and, in this connection, it would be desirable that further consideration be given by counsel to some other questions, such as the sufficiency of the evidence to warrant an inference of an intention on the part of the railway company to dedicate, and the power of the Canadian Pacific Railway Company to do so in respect of the line of the Calgary and Edmonton Railway Company; and the Board should be furnished with evidence of the relations of these two companies respecting the line. I understand that the line is under lease to the Canadian Pacific Railway Company, which may have no power to dedicate any portion of the land of the Calgary and Edmonton Railway Company as a public highway, even if it could so dedicate a portion of its own land; and circumstances which would warrant the inference of a dedication by the company whose

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officials are operating the railway, might be quite insufficient to warrant such an inference as against the lessor.

Towns and villages along the line of the Calgary and Edmonton Railway owe their existence to that railway. Necessarily they must submit to many inconveniences inseparable from such a situation. Where the Board exercises a discretionary power to determine at what points on such a railway street crossings shall be opened, it is obliged to consider the relative convenience of the public and the railway company as well as the public safety. The efficient operation of the railway is a matter of importance to the public generally and to the residents of the particular locality dependent upon it. It is particularly incumbent upon the Board to protect the public from the dangers attending such crossings; and in the performance of this duty, it must be on its guard against being too readily influenced by the insistence of those desiring relief from present inconvenience and led by self-interest to minimize the danger.

An examination into the position at High River indicates the importance to the community of a street crossing near the business centre of the town. It is admitted that the town was laid out by the original promoters of the railway, who, therefore, are in some measure responsible for the situation which has developed; and the company at present operating the railway must, for an application of the kind in question, be treated as affected by this responsibility. On this ground, it appears to me that there should be a crossing at Third street upon the terms agreed to by the town, which appear to afford reasonable compensation to the railway company. Under the circumstances of the town and the probability of its growth westward, the closing of Seventh street should not be insisted upon.

As regards Olds, the situation appears to be much the same. The convenience of the community, it appears to me, demands the crossing at Third street; but, for the present, I do not think that more should be allowed, or that the southern crossing offered by the railway company as a condition of being relieved of the crossing at Third street should be authorized.

At Didsbury, the promoters of the railway laid out the town site on one side of the railway only, retaining, in one block, land lying along the other side of the line. They held out no inducement to the growth of a town or village to the east of the railway. Such growth as has arisen there is upon land thus separated from the railway and the town on the western side. The village is much smaller than High River, and the importance of a crossing at a particular point is not so great. The public have not long been accustomed to regard the crossing at Hespeler street as an open one. If there were no question of the existence of a public highway at Hespeler street, but the case was submitted merely to the discretion of the Board, I would not be in favour of authorizing the crossing at that street. If the railway company will so place the warehouses on the east side of the track as to be convenient to the crossing at Waterloo street, that crossing should, in my opinion, sufficiently answer the needs of the village.

It does not appear that the village has full power to open highways. Apparently this power was not given by the ordinances under which it was constituted. We have been referred to a late statute of the province of Alberta, the terms of which I have not yet had an opportunity of learning. Unless the village has such power, I do not think that this Board can authorize the village to open a highway over the tracks of the railway company against the will of the company, although the Board might empower the company to open such a highway if it was willing to do so.

As to Leduc, I think that the company ought to open Main street, at least, unconditionally, leaving the question of protection for future consideration when the necessity arises. The company expressly indicated the crossing at Main street as open in answer to the application for the making of a crossing at Mill street. If the company is unwilling to do this, the matter is open to the same difficulty as in the case of Didsbury, though, upon its appearing that the locality has become incorporated as

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a town, an order might be made. If, upon further consideration of the Didsbury application, it should appear to the Board that, without leave, the company could dedicate a strip across its land as a public highway, and the company is unwilling to allow the crossing at Main street as suggested, the village should have an opportunity of showing the existence of a public highway across the railway at that point.

Orders issued accordingly in the case of the applications of the town of High River and the town of Olds.

NOTE.—The parties have been asked to submit further arguments in writing in respect of the question of the power of a railway company to dedicate a portion of its right of way for use as a public highway without authority of the Railway Committee of the Privy Council, under the Railway Acts, previous to the establishment of the Board, or of the Board since its organization.

High River Case.

Judgment in concurrence, Mr. Commissioner Mills.

I cannot help feeling that when a company, running a line of railway through a locality, fixes upon a place for its station and lays out a town site on both sides of its tracks, providing for streets running through the town (across its railway), and prohibiting the people who may settle in the town and use the said streets, from crossing the said railway within the limits of the railway yard, varying in length from one-third to one-half mile or more, it (the said company) thereby creates an unreasonable and intolerable business condition, such as no class of people, whether living in the town or going there to do business, should be asked to submit to.

The unreasonableness of the prohibition above referred to is shown by the fact that in nearly every such instance the local railway officials allow people on foot to pass illegally across the railway tracks within the prohibited limits, as the members of the Railway Commission, their officials, and many others did on the day of the recent visit of the commission to the town of High River; and in not a few such places, vehicular traffic is allowed to pass illegally across the right of way and over the tracks within the prohibited limits, because the prohibition is felt and tacitly acknowledged by the railway officials themselves to be unfair, if not altogether indefensible.

For this intolerable business condition, the railway company is primarily responsible; and the people who, with knowledge of the facts, settle in a town where such a condition exists, are perhaps to some extent responsible, in so far as they thereby tacitly agree or consent to work and live where such condition is imposed.

Therefore, I am of opinion that, in such cases, some measure of relief should be granted, and that the railway company should bear, say, one-half of the expense of providing such relief.

All rail-level crossings involve more or less danger, farm crossings, highway crossings, street crossings over single tracks in cities, towns and villages, and street crossings over two or more tracks within the limits of railway yards, some close to stations and others at greater or less distance therefrom. Nevertheless large numbers of each of these kinds of crossings are found all over the country, because public opinion (the law-making power) long ago decided and still maintains that such crossings are absolutely necessary. I admit that rail-level crossings through a railway yard are specially objectionable and should be avoided as far as possible; but, on account of the intolerable condition above described, the need for such crossings has been so great that, notwithstanding the danger, they have been made in nearly every town or village (not to speak of cities) through which a railway passes in the older provinces; and it appears to me that the Board of Railway Commissioners, especially on account of the increased and ever increasing length of railway yards, is now and

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will hereafter be under obligation to grant such crossings in response to reasonable applications and appeals by the business people of the country, until such time as there is special legislative provision for distributing and in some way defraying the expense of subways, overhead bridges, or other special forms of protection at many, if not most, of the crossings in our cities, towns and villages.

Further, rail-level crossings, especially crossings through a railway yard, cause a certain amount, possibly a considerable amount, of inconvenience to a railway company. This is admitted. Nevertheless I think it is manifest that such crossings must continue to be made until, as above suggested, there is special legislative provision for the construction of subways or overhead bridges at crossings which cannot be properly protected by the ordinary and less expensive methods. At present the question is who shall bear the inconvenience, the public or the railway companies? My opinion is, first, that the inconvenience should be equitably divided; and, second, that no class of people in any city, town or village should, in the transaction of business or the discharge of social or civil duties and obligations, be compelled to walk or drive unreasonably long distance in order to cross the right of way and track or tracks of any railway company.

In speaking of the Calgary and Edmonton Railway, I may say that I do not question the correctness of the statement that 'the towns and villages along the line of the Calgary and Edmonton Railway owe their existence to that railway'; but, I might ask, if it is not equally true that the Calgary and Edmonton Railway owes its existence and its manifestly profitable traffic to the said towns and villages and the trade of the farmers use the streets thereof.

I admit also that the Board should 'consider the relative convenience of the public and the railway company, as well as the public safety,' and should not forget that 'the efficient operation of the railway is a matter of importance to the public generally, as well as to the residents of particular localities dependent upon it'; but the experience of railway companies and of the public generally in the older provinces of the Dominion goes, I think, to show that the interests of neither the one nor the other have been seriously sacrificed by granting the residents of particular localities reasonable facilities for doing business on the opposite side of the lines of railway which pass through the cities, towns or villages in which they live.

I do not attach much importance to the insistence of those who seek relief, but I desire to give due weight to the facts in each case; and I never can bring myself to think that the board, on any mere theory of inconvenience to the railway company or from a desire to meet the wishes of the general public for more rapid transportation, is justified in allowing a railway company to create and maintain unreasonable or intolerable business conditions in any city, town or village through which it passes; and while I do not desire to minimize the danger of crossings through railway yards or elsewhere, I would venture the statement that most of the accidents on the railways in this country are due, not to crossings, but to collisions of various kinds on the railways, to carelessness or recklessness in shunting, which results in the death of so many railway employees.

Therefore, my opinion is that the municipality of High River should be authorized to cross the right of way and track or tracks of the Calgary and Edmonton Railway Company on Third street in the said town as soon as it obtains and transfers in fee simple to the said company, the plot of land agreed upon between the company and the municipality, all as per agreement between the parties; and that Seventh street, in the said town, should be kept open and maintained as heretofore for the use of the public in that locality.

November 10, 1906.

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Didsbury Case.

Judgment in dissent, Mr. Commissioner Mills.

Findings—

That the Calgary and Edmonton Railway Company graded and planked the railway crossing on Hespeler street, Didsbury, Alta., opened the said crossing, and maintained it during a continuous period of about four years, for hauling freight to and from between the village on the west side of the railway and the freight tracks or sidings on the east side of the main line, and for general use by all who cared to travel to and from the east side of the railway, whether the residents of the village on the west side, the property holders on the east side, or the farmers and others in the country lying east, northeast, and southeast of the village.

That during the time that the crossing on the said street was in use, and without any kind of notice or intimation that it would ever be disallowed or closed, some seventy lots of lands were bought on the east side of the railway, in what is now called Lacknerville, or Didsbury East. These lots, it appears, were bought and some houses were built in good faith and under the undoubted impression that on Hespeler street there would continue to be, as there had been, a regular public crossing over the railway, open at all times for the use and convenience of those who might wish to pass to and fro between their property on the east side and their place of business in the village on the west side of the railway.

That the owners of the said lots, with or without houses, have vested rights which they acquired on the faith that the railway company would continue to do as it had done regarding the said Hespeler street crossing, which crossing the company had itself establish, maintained, and allowed the public to use without let or hindrance for a period of four years or longer.

Expressions of Opinion

No doubt the railway crossing on Hespeler street did, when in use, and will if restored, involve two things:

- (1) Some danger to the travelling public in that locality.
- (2) Some inconvenience to the railway company.

All rail-level crossings involve more or less danger—farm crossings; highway crossings; street crossings over single tracks in cities, towns and villages; and street crossings over two or more tracks within the limits of railway yards—some close to stations and others at greater or less distances therefrom. Nevertheless large numbers of each of these kinds of crossings are found all over the country, because they are regarded as absolutely necessary; and they must, in my opinion, continue to be made with or without protection and notwithstanding the danger, until such time as special legislative provision is made for defraying the cost of subways or bridges at crossings which involve serious risk. This, I take it, is the reason why the Railway Committee of the Privy Council allowed and legalized hundreds of more or less dangerous rail-level crossings on streets and through railway yards in the cities, towns and villages of the Dominion.

Further, every rail-level crossing, especially a crossing through a railway yard, causes a certain amount, possibly a considerable amount, of inconvenience to the railway company; and, after carefully considering the whole situation and circumstances, I am of the opinion that this inconvenience, like the danger above referred to, must continue until legislative provision is made for subways or overhead bridges at such crossings as cannot be satisfactorily protected by the usual means now in use. At present, the question is, who shall bear the inconvenience, the public or the railway companies? My opinion is that the inconvenience should be equitably divided; on the one hand, the railway companies should not be embarrassed by too many crossings

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through their yards—municipalities should not, in some instances, be given all the crossings they ask for; and, on the other hand, no class of people in any city, town or village should, in the transaction of business or the discharge of civil and social duties or obligations, be compelled to walk or drive unreasonably long distances in order to get across the right of way and track or tracks of a railway company.

In my opinion, the aim of the Commission should be, not to restrict, hamper or embarrass the business community by refusing or closing such railway crossings as reasonable convenience demands, but to provide protection at dangerous crossings and endeavour to distribute as equitably as possible the cost of such protection.

The distribution of the cost of protecting a railway crossing must always depend upon the facts and circumstances: Who created the necessity for the crossing? Who is responsible for the facts and circumstances which have made the demand for the crossing a reasonable one? Who is or are served by the crossing—the railway company alone, the municipality alone, or both, or the railway, the municipality and the outside, surrounding public? What has caused the danger that makes the protection necessary—increased traffic on the railway, the running of fast through trains, or the growth of population and industries in the municipality?

I had stated my views *re* the distribution of the cost of protecting certain crossings in the village of Didsbury; but out of deference to the opinion of the Chief Commissioner, I decided to leave that question for future consideration—to be settled when the occasion arises—and shall deal only with the application for the reopening of the crossing on Hespeler street in the said village.

In reference to this application, I may say that, for reasons which were obvious, though not openly avowed at the hearing, the railway company did not, in the case of Didsbury, lay out and sell any portion of its land on the east side of its line of railway, and did not thus contribute to any inconvenience which might result from a lack of crossings over its railway in the village; but, as already stated, it laid out the village on the west side of its line, placed its freight shed and freight sidings on the east side of its line, and established a regular crossing over its tracks on Hespeler street in the said village. For a period of four years or longer, the said Hespeler street crossing was used, not only for the business of the company, but for all kinds of traffic—village and farm traffic alike—without let or hindrance from the company, or any kind of intimation that the said crossing would ever be closed; and the evidence shows that, under the impression that on Hespeler street there would continue to be, as there had been, a regular public crossing, a number of people bought lots on the east side of the line, some of them built houses there, in order to improve the road leading up to the crossing on the said street. Then, after a number of people had thus acquired rights on the east side of the railway, the railway company, without notice, closed the crossing on Hespeler street and opened another which it thought would better serve its purpose. This course of action by the company does not seem to me to be quite fair or reasonable; it might, perhaps, be described as arbitrary; and if the Railway Commission should approve of it as a fair and reasonable proceeding, it would, I think, thereby take a serious step towards establishing a new principle of law in dealing with the question of vested rights.

Therefore, my judgment is:

That the said Hespeler street crossing over the right of way and tracks of the Calgary and Edmonton Railway, in the village of Didsbury, in the province of Alberta, should be reopened and maintained as a regular public crossing over the said railway at that point; the grading on each side of the track or tracks to be maintained in good order by the village, and the planking, not less than twenty feet long, between and on the outside of each pair of rails, to be laid and kept in good condition by the railway company.

February 1, 1907.

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Re Queen's Wharf Crossing, Toronto.

This was an application by the Canadian Pacific Railway Company for an order to vary the order of the Railway Committee of the Privy Council, dated February 8, 1893, and the order of the Board, dated July 27, 1905, by directing that the entire cost of operation and maintenance of the diamonds, interlocking, derailing, and signal appliances at the Queen's wharf crossing, in the city of Toronto, of the applicant company's line of railway by the Grand Trunk Company's lines be borne by the two companies in the proportion which the total number of cars belonging to one company passing in any direction over the crossing bears to the total number of cars belonging to the other company passing in any direction over said crossing.

By an agreement between the two companies, the Grand Trunk Railway Company granted to the Canadian Pacific Railway Company running rights from the city of Toronto to the city of Hamilton, and by the agreement the expenses of maintenance of the tracks, &c., so used, and the other expenses connected with the operation of the section jointly used, were to be divided between the two companies upon a wheelage basis. The tracks so used are a portion of those crossing the Queen's Wharf spur of the Canadian Pacific Railway Company.

At the hearing (October 23, 1906), the applicant company claimed to be the senior company and to be entitled, on that account, to have the total cost of the protective appliances borne by the Grand Trunk Company.

The order of the Railway Committee of the Privy Council orally pronounced was that as the origin of the two companies was so close together in point of time, the committee was not called upon to determine the question of seniority, and that, therefore, each company should bear half the cost of construction, the cost of maintenance to be governed by the agreement.

It does not appear that any application was made by the applicant company to the Railway Committee for a change in the order, although there was some correspondence between the two companies in respect of the apportionment of the expenses between them.

Judgment, November 16, 1906.

Chief Commissioner Killam: It appears to me entirely too late to take the ground that the order orally pronounced by the committee was varied on a subsequent application of the Grand Trunk Company without notice to the Canadian Pacific Company. Such an objection should be raised at once upon the order coming to the notice of the complainant company. And it appears to me, also, that this Board should not now reconsider a decision of the Railway Committee upon the facts which were before it. It was the body established by law to determine such questions when the application came before it and when its order was made. The Railway Committee was a body whose membership was frequently changing. It would have been wholly unreasonable for that body to adopt the policy of changing its decisions with changes in the opinions of individual members of the committee. It would be equally unreasonable, it appears to me, for the new tribunal which has taken the place of the committee to substitute the individual views of its members for those of the former tribunal. It is true that the Railway Act gives to this Board authority to vary orders of the Railway Committee, as well as to vary its own orders; but such jurisdiction, it appears to me, should not ordinarily be exercised except under changed circumstances, or for the purpose of rectifying errors which appear to have occurred through want of information, oversight or otherwise. Even in the latter cases, application should be promptly made, as the facts respecting any alleged error or oversight are much more likely to be then ascertained.

When the application was before the Railway Committee it was, of course, unknown in what proportions the crossing would be used by the two companies, and there was very little before the committee which would enable it to judge the probabilities in this respect. But such must usually be the case.

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I do not think that it would be reasonable or just to take up in this way individual cases in which it may appear that one company or the other is contributing an undue proportion of expenses of the kind in question, having reference to the respective proportions in which they use a crossing. If former orders of this kind are to be revised on such a principle, the general policy should first be determined upon, and a general inquiry made respecting at least all such as any railway company should desire to have considered. I doubt whether any company would derive from such a general inquiry an advantage which would recompense it for the expense and labour of engaging in it, and I doubt, also, whether the result would repay railway companies for keeping the necessary accounts respecting a number of crossings. If it is desired that the Board should take up the consideration of the adoption of such a general policy, it might be made a subject of discussion with the railway companies generally; but, in the meantime, it appears to me that the Board should not interfere with the order of the Railway Committee. The question whether, under the agreement between the two companies, the half ordered to be paid by the Grand Trunk Company should be charged against the expenses to which the Canadian Pacific Company has to contribute, is not a question, in my opinion, for this board to determine.

Re Crossings of Railway Companies by Transmission Lines of Power Companies.

By order of the Board of August 7, 1906, the Kaministiquia Power Company was granted leave to erect and maintain its transmission lines across the tracks of the Canadian Pacific and Canadian Northern Railway Companies' right of way at West Fort William, subject to the conditions set forth in the order, among which were the following:—

'1. That the applicant company, at all times, at its own expense, maintain, in good order and condition, the wires crossing the said railways so that at no time shall any damage be caused to the companies owning, operating or using the said railways, or to any person lawfully upon or using the same.

'2. That the applicant company, at all times, wholly indemnify the companies owning, operating or using the said railways of, from and against all loss, costs, damage and expense to which the said railway companies may be put by reason of any damage or injury to person or property caused by any of the said wires or any works or appliances herein provided for not being erected in all respects in compliance with the terms and provisions of this order, or if, when so erected, not being at all times maintained and kept in good order and condition, and in accordance with the terms and provisions of this order, as well as any damage or injury resulting from the imprudence, neglect or want of skill of any of the employees or agents of the applicant company.

'That no work, at any time, be done under the authority of this order in such a manner as to obstruct, delay or in any way interfere with the operation or safety of the trains or traffic on the said railways.'

The Canadian Pacific Railway Company applied for an order amending the said order, to provide that the erection, construction and maintenance of the said wires be wholly at the risk of the Kaministiquia Power Company, and the said company indemnify and save harmless the Canadian Pacific Railway Company 'of, from, and against all loss, cost, damage and expense from any cause whatsoever to which the applicant company may be put by reason of any damage or injury to person or property or otherwise resulting from the erection, construction, operation or maintenance of the said wires or any working appliances which may be provided in connection therewith.'

In support of this application, the Canadian Pacific Railway Company alleged that the construction, operation and maintenance of high potential wires across its right of way was a source of the gravest danger to it, its property, and to the property and persons of those using the railway; that the presence of the said wires,

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even though properly protected so far as human foresight could provide, nevertheless meant that, in the case of an accident, whether due to exceptional causes or not, the resultant damage to the applicant company's property and that of third persons would be very far-reaching and was not a risk that should, under the circumstances, be assumed by the applicant company; that they should, therefore, be insured against any such loss, and requested that clause two of the order in question be amended in accordance with the application. The Canadian Northern Railway Company concurred in the application.

By agreement, written arguments were submitted upon the question thus raised. Express agreements had been entered into between some of the power companies and some of the railway companies affected respecting a number of such crossings and the protection to be provided thereat. These agreements were approved by the Board and orders issued accordingly. Among the provisions of such agreements are the following:—

‘And the power company covenants and agrees that it will indemnify and save harmless the party of the first part, its agents, operatives and employees of and from any and all claims of every name, nature and description which shall be made against the railroad company or against such operatives or employees, by reason of any injury which shall come to any of them, or to the public, or to any property in transit upon such railway because of the operation of its transmission lines or any thereof under this grant and license, and whether such injury shall be sustained through the derailment of any locomotive or car of the railroad company or otherwise, it being intended that all the risk of all accidents incident or arising from the construction, maintenance or operation of such cables over the railroad of the railroad company, however occurring, shall be borne by the power company. The railroad company is to notify the power company in writing of any such claims or of any suit for the recovery of such damages, and the power company may with the support of the railroad company arrange with the claimant or defend such suits.

‘All the work to be done by the power company or by its contractors, agents or servants in connection with the doing of the said work, or in connection with the repairs, renewals, or maintenance thereof, shall be done at the risk of the power company without expense to the railroad company.....

‘The power company covenants and agrees to keep, abide, and perform all the terms and provisions hereof, and shall and will at all times indemnify and save harmless the railroad company of and from all loss and damage which may happen or arise, or be done, incurred or caused by reason of the construction, repair, renewal, maintenance or use of the said work.

‘The railroad company shall not in any case be liable to the power company or to its contractors, agents or servants, or to the agents or servants of any such contractors, for any injury or damage to the person or property of the power company, or to the person or property of any of its contractors, agents or servants, or to the agents or servants of any such contractors which may happen, or be done, or caused by, or by reason of the doing of the said work, or during the repair, renewal, maintenance or use thereof; and the power company shall and will assume and does hereby assume all responsibility and liability for any and all such injuries and damages, whether caused by negligence of the railroad company, its agents or servants, or otherwise; and the power company shall and will indemnify and save harmless the railroad company, its successors and assigns, of and from all damages, claims for damages, demands, suits, recoveries, judgments or executions which may arise, or may be made had, brought, or recovered by reason of or on account of any such injuries or damages. And it also covenants and agrees to indemnify and save harmless the railroad company, its agents, servants and passengers of and from all loss, injury or damage to it or to its agents, servants, or passengers, which may happen or be done or caused

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by reason of the doing of the said work, or by, or by reason of the repair, renewal, maintenance or use thereof, or by, or by reason of any failure to repair, renew or maintain the said work.'

The contention of the Canadian Pacific Railway Company was that the lines of the Kaministiquia Power Company were carried across land owned by the railway company; that no compensation had been given to it for this interference with its right of property; that the wires were to be used for the transmission of something from which there was great risk of injury; and that the railway company could not be compelled to bear any of the risk this occasioned while it arose from the default of the power company or from any source beyond the control of the power company.

The original application asked that the risk be thrown absolutely upon the power company, without providing for cases in which the injury might be due to the default or negligence of the railway company or its agents; but in the written arguments referred to, the railway company did not go so far, but suggested a clause which excepted from the liability proposed to be thrown upon the power company 'any loss or damage directly attributable to any act, default, or negligence on the part of the railway company, its agents or employees.'

Judgment, Chief Commissioner Killam, November 17, 1906.

It appears to me that the contentions of the Canadian Pacific Railway Company are well founded, and that it ought to be at no risk of loss arising from the placing of such wires across its right of way or the transmission of electric power thereon, excepting in cases in which the loss is primarily due to its default or that of those for whom it is responsible. Telephone wires over railway tracks cause a measure of physical obstruction, from which there is some possibility of danger. Contact between such wires and other wires may result in injury. But there is no such danger ordinarily attending their existence over railway tracks as in the case of wires transmitting high electric power. Usually, too, telephone wires are carried along highways and across railway tracks where the company does not own the land but has merely a right of crossing the highways; and it is not necessary, at present, for the Board to determine what orders shall be made where power wires cross a railway upon a highway.

It appears to me that the clause now suggested by the Canadian Pacific Railway Company as a substitute for clause 2 of the original order and of the draft of the order proposed to be made in respect of the power company's second application, is a reasonable one and should be adopted. The clause is as follows:—

'That the applicant company shall, at all times, wholly indemnify the railway company of, from, and against all loss, cost, damage, and expense to which it may be put by reason of any damage or injury to person or property or business caused by any of the said wires, lines, or any work or appliances herein provided for, or by the continuance or use thereof, whether caused by the same or any of them not being erected in all respects in compliance with the terms and conditions of this order, or if, when so erected, not being at all times maintained and kept in good order and condition and in accordance with the terms and provisions of this order, or otherwise howsoever caused, as well as of any damage or injury resulting from the imprudence, neglect or want of skill of any of the employees or agents of the applicant company; Provided, however, that the applicant company shall not be required to indemnify the railway company from and against any loss or damage directly attributable to any act, default, or negligence on the part of the railway company, its agents, or employees.'

The power company now alleges that it has constructed its work under the order of August 7, and that that order at least should not now be varied. It appears to me, however, that as the question is a new one and as it was raised so promptly after the railway company had received notice of the order made, the power company's objections should not prevail.

January 24, 1907. Upon the statements made in Mr. Montgomery's further communication of December 11, 1906, it appears that the Kaministiquia Power Company

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has power to construct lines for the transmission of electricity upon and along highways. I understand that this is not disputed by the railway companies, although opportunity has been given for the purpose. This being the case, I think that the power company stands in the position of the telephone company, acting under the provincial order of the Board of Trade, referred to in the *National Telegraph Company v. Baker* (1893), chapter 186; and the Tramway Company, whose lines were constructed under statutory authority, referred to in *Eastern and South African Telegraph Company v. Capetown Tramway Companies* (1902), A.C. 381.

The lines authorized by the Board's order of August 7, 1906, are not constructed across the lands of railway companies, but along the highways in respect of which the railway companies have merely rights of crossing. Under those circumstances, it does not appear to me that the power company should be responsible for any injury except such as may arise from its negligence or that of its servants or agents, and, in respect of such, the railway companies need no protection by order of the Board.

I am, therefore, of opinion that we should not vary the original order in this case.

February 4, 1907. The Kaministiquia Power Company was incorporated by the legislature of the province of Ontario, from which it derives any authority that it may have to construct lines along the highways. With its action in this respect, this Board has nothing to do. The board is not asked to give the company any authority to carry its lines along the highways; but as it is doing, and has done, so in accordance with the right which it claims, and as these rights are not contested by the railway companies interested, we may assume for the purposes of the applications before us, that the power company's action is lawful.

As the Board has no authority to give or refuse leave to run along the highways, it does not appear to me that it should impose any condition to that being done. The company applied for leave to carry its wires across the tracks of the Canadian Pacific and Canadian Northern Railway Companies; and an order was made authorizing it to do so. The railway companies have since asked for the insertion of a condition throwing upon the power company the responsibility for any damage that may occur to the railway companies or those using the railways. Upon the grounds expressed in my memorandum of January 24, I do not think that such a condition should be imposed, as between the railway companies and the power company; and I think it best that we should simply refuse the applications of the railway companies, leaving the municipality and the public using the highways to such protection as is given by the provincial law.

*In Re Canadian Pacific Railway Company and Grand Trunk Railway Company,
Lennoxville Crossing Case.*

Under an agreement between the Grand Trunk Railway Company and the International Railway Company it was agreed that the said International Railway Company should bear the cost of providing, maintaining, equipping and working an ordinary level railway crossing, together with all risk arising from such construction and operation. The agreement also contained the following provision: 'In the event of the government of this Dominion passing any Act whereby certain signals, interlocking switches, or other appliances shall be used on level railway crossings, it is hereby understood and agreed that the party of the second part' (being the International Company) 'will provide, work and maintain such at their own expense.'

Hearing, October 30, 1906.

Judgment, November 17, 1906.

Chief Commissioner Killam (6 Can. Ry. Cas., pp 78 *et seqo*): Held, that the said clause of the agreement should not be narrowly construed; that the Board had authority under the Railway Act, 1903, to order an interlocking system at this crossing for the protection of the public.

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Ordered, that the Canadian Pacific Railway Company install, maintain, and operate the ordinary interlocking, derailing and signal system, at its own expense, at the said crossing.

Windsor, Essex and Lake Shore Rapid Railway Company Crossing, Talbot Street, in the Town of Essex.

The Windsor, Essex and Lake Shore Rapid Railway Company applied, under section 177 of the Railway Act, 1903, for leave to cross, at rail-level, with its track the track of the Michigan Central Railroad Company, on Talbot street, in the town of Essex.

After hearing and a personal inspection by the Board, and upon the report of its engineer, the Board, on May 25, 1906, made an order authorizing the applicant company to construct its line of railway across the track of the Michigan Central Railroad Company by means of subway at a point distant not less than 1,200 feet west of the proposed point of crossing on Talbot street.

Later, the applicant company asked for a further hearing of its application, claiming that it had not previously received notice that the Michigan Central Railroad Company proposed to urge the construction of a subway, and that it was not prepared with proper evidence upon that point; that, on account of the nature of the locality, a subway crossing was not feasible there.

The company was directed to formally apply to rescind or vary the Board's order; and upon a further hearing, and in view of the opinions expressed by the chief engineer of the Board, as well as by other engineers, the Board, by order, dated November 16, 1906, rescinded its previous order of May 25, 1906, directing the construction of a subway, and authorizing the crossing by the applicant company at rail-level, requiring:

(a) That the said crossing be protected by an interlocking plant known as the 'McSwain Interlocking Device'; derails to be placed on the applicant company's line of railway, on both sides of the said crossing; and the said derails to be interlocked with home and distant signals on the line of the Michigan Central Railroad Company;

(b) That the tracks of the Michigan Central Railroad Company be bonded to a point 400 feet beyond the distant signals;

(c) That the normal position of signals on the Michigan Central Railway be at 'safety,' and the derails open on the applicant company's line;

(d) That the plan showing the position of the derails and signals, the description of machinery to be provided, and other necessary details, be submitted to the engineer of the board for his approval;

(e) That a day and night watchman be appointed to take charge of the said interlocking plant, who shall also operate the gates at the said point of crossing throughout the whole twenty-four hours for the protection of those using Talbot street in the ordinary course, the said men to be appointed by the Michigan Central Railroad Company, the wages of one of whom to be paid by the applicant company, and the wages of the other by the Michigan Central Railroad Company.

At the later hearing it was urged by the Michigan Central Railway Company that, before the applicant company can be authorized to carry its track across the line of the Michigan Central Railroad Company, it must have its route and its location plans approved in the manner required by the Dominion Railway Act.

Judgment, Chief Commissioner Killam, November 20, 1906.

It does not appear to the Board that this is necessary. Apparently the provincial Act did not require approval of the route or location of the railway by an authority. As the Board held before, the requirement in the Electric Railway Act of Ontario that plans be filed with the provincial Minister of

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Public Works was a condition only to the exercise of the right to expropriate land and not a condition precedent to the right to construct or operate the railway. The company's Act of incorporation, 1 Ed. 7, c. 92 (Ont.), provided that the railway might be carried along and upon such public highways as might be authorized by the by-laws of the respective corporations having jurisdiction over the same. It is not disputed that the necessary authority to run along the highways has been given by municipal by-laws. The original Act, as well as the Ontario Act of 1905, cap. 110, authorized the railway company to carry its line across the line of any other company on the level. Before the passing of the Dominion Act declaring the company's railway to be a work for the general advantage of Canada, the Board heard the application for a level crossing, and made an order authorizing the line to be carried underneath the Canada Southern Railway. The last mentioned Act provided that the Railway Act, 1903, and amendments thereto, with a certain exception, were to apply to the company and to its works, to the exclusion of the Electric Railway Act of Ontario or any provision of the Act incorporating the company or any amending Act inconsistent therewith, but provided that nothing therein contained should affect any action theretofore taken pursuant to the powers in such Acts. The application with which the Board has now to deal is one for a variation of the former order, so as to allow of the crossing being made at grade. The Board is of opinion that such an order may be made without approval of the route or the location of the railway under the Railway Act, 1903.

In accordance with the report of the engineer, the Board decided to refuse the application of the Windsor, Essex and Lake Shore Rapid Railway Company for permission to cross the Michigan Central Railway on Talbot street, in the town of Essex, and, instead, to grant the said company permission to construct a subway under the main line of the Michigan Central Railway in the southwestern part of the said town, and to carry its line at rail-level over the tracks of the Amherstburg branch of the Michigan Central Railway.

From this judgment, Mr. Commissioner Mills dissents as follows:—

Whereas steam railway companies have been and still are permitted and authorized to carry their lines of railway, even those on which are the heaviest traffic and fastest trains, across one another at rail-level in all parts of the country;

Whereas the ordinary derailing and interlocking appliances now used by railway companies were approved and ordered by the Railway Committee of the Privy Council and have frequently been approved and ordered by the Railway Commission as affording sufficient protection to the public where one steam railway crosses another at rail-level;

Whereas, by the junction of the block system in use on the Michigan Central Railway with the ordinary derailing and interlocking appliances and the use of the gates and electric bell now maintained by the Michigan Central at the said crossing on Talbot street, the protection could, in my opinion, be made more perfect and complete than anything yet ordered by the board;

Whereas the construction of a subway at the point suggested will necessitate such an abrupt, long, and to my mind unreasonable diversion of the electric line as no municipality would permit—much less propose—in the case of a highway for ordinary vehicular traffic;

Whereas the proposed diversion of the electric line in the town of Essex will involve the making of two crossings instead of one, one by a subway under the main line of the Michigan Central Railway where it is impossible to get drainage, and the other at rail-level by the use of a diamond and derailing appliances on the Amherstburg branch of the Michigan Central Railway; and

Whereas interurban electric railways, intended especially to meet the wants of the farming community by carrying passengers for short distances and collecting

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scattering freight in small quantities throughout the rural sections of the country, receive no bonuses from the Dominion government, local governments, or municipalities, and consequently are unable to bear the cost of expensive subways or overhead bridges such as the heavy subsidized steam railway companies may be able to provide;

Therefore, I have to dissent from the above judgment, on the ground that in my opinion, the proposed diversion of the electric line, with all that it involves, is unnecessary, unreasonable and oppressive—not necessary for the protection of the travelling public, not even efficient for that purpose, as it proposes and involves a level crossing of a regular line of steam railway, at rail-level, with very much less complete and effective protection than could and would be provided at the crossing on Talbot street; unreasonable, because of the length and abruptness of the diversion, which, by the creation of a steep grade and three or four right-angle curves, will greatly diminish the hauling power of the electric line; and oppressive, because it imposes on the Electric Company heavy expense for the purchase of a new right of way through a good and well-peopled part of the town, the burden of an expensive subway where drainage cannot be obtained, and the outlay necessary for a diamond and protective appliances at a rail-level crossing over the Amherstburg branch of the Michigan Central Railway.

May 26, 1906.

Judgment in concurrence, Mr. Commissioner Mills.

This is an application by the Windsor, Essex and Lake Shore Rapid Railway Company, an electric road, to cross the tracks of the Michigan Central Railway, at rail-level on Talbot street, in the town of Essex, Ontario.

After considering the evidence submitted, the arguments of counsel, the report of the chief engineer of the Board, and the whole situation and facts of the case as set forth at the hearings in Windsor and Essex, I may state briefly my opinion on two or three points:—

1. That if a subway off at Talbot street (as proposed), with all the difficulties regarding drainage, were insisted upon, a very heavy, if not altogether intolerable, burden would be imposed upon the applicant company; and the danger to the travelling public in that locality would be greatly increased beyond what it now is, by adding a rail-level crossing of the electric road over the Amherstburg branch of the Michigan Central Railway to the rail-level crossing which now exists (and will continue to exist) for vehicular and pedestrian traffic on Talbot street. In fact, we might fairly say that two things would follow: the applicant company would be burdened, possibly bankrupted; and the danger to the travelling public would be doubled—without any compensating advantage, except in the matter of convenience to the main line of the Michigan Central Railway.

2. That the proposed subway, with its five per cent grade, would greatly hamper and injure the electric road in its freight traffic.

3. That if a rail level crossing by the electric road over the tracks of the Michigan Central Railway on Talbot street, where a crossing protected by gates now exists for vehicular and pedestrian traffic, is granted, and stipulation is made that the most perfect form of protective appliances for such a crossing are installed, connected with the gates now in use at that point, and all (the new protective appliances and the gates) operated night and day by men chosen and controlled by the Michigan Central Railway,—if, say, all this is done, there will be only one rail-level crossing instead of two; the Michigan Central Railway will be well served; the electric company will not be embarrassed either by heavy capital outlay or in the operation of its line of railway; and above all the danger to the travelling public will be very much less than it would be with a subway and two level crossings one partially protected and the other with little or no protection.

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Therefore I can only re-affirm my judgment of May 26, 1906, and concur in the conclusion to-day reached by my colleagues, the Chief and Deputy Chief Commissioners.

November 20, 1906.

Re Kaladar Drainage.

The facts are fully set forth in the judgment of the Chief Commissioner.

November 20, 1906, Chief Commissioner Killam:

The Canadian Pacific Railway Company applied to the Board for an order authorizing the company to construct a ditch upon and across certain specified lands according to a plan submitted with the application.

The lands in question consisted of certain lots in concessions three and four of the township of Kaladar, and in concession two of the township of Sheffield, owned by different private individuals, only one of whom, James Murphy, has made objection to the construction of the drain through his land or the granting of the order.

The railway actually intersects all the lots except Murphy's, the nearest portion of which is distant several hundred feet from the line of the railway, and is separated from the railway company's property by the lands of other private owners which actually adjoin the railway.

The applicant company relies upon the powers given by subsections (*m*), (*p*) and (*q*) of section 118 of the Railway Act, 1903:

'(*m*) make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;

'(*p*) from time to time to alter, repair or discontinue the before-mentioned works or any of them, and substitute others in their stead;

'(*q*) do all other acts necessary for the construction, maintenance and operation of the railway.'

On behalf of Murphy it has been argued that section 196 makes it the duty of the company to make and maintain sufficient ditches and drains along each side of the railway for the purposes of any necessary drainage; that this method is the only one that can be used after the railway has been completed; that this railway has been completed and in operation for many years, and any powers of expropriation of land, or of the use of adjoining lands for purposes of drainage, have been exhausted and cannot now be resorted to; that drainage by means of ditches along the railway has been found to be sufficient for the maintenance of the railway, as evidenced by its use for so many years; and that Murphy's lands were not 'lands adjoining the railway' within the meaning of subsection (*m*) of section 118.

Section 196 provides that 'the company shall in constructing the railway make and maintain suitable ditches and drains along each side of, and across and under the railway, to connect with ditches, drains, drainage works and water courses upon the lands through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial or existing drainage of the said lands shall not be obstructed or impeded by the railway.'

This clause is evidently inserted for the purpose of imposing upon the company the duty of instituting such a system of drainage along its tracks as will prevent the interference of its works with the drainage of the lands of others. It is not intended to indicate the powers which the company may exercise for the proper construction and maintenance of its railway. These powers are found in section 118, and among them are powers from time to time to alter, repair or discontinue the works previously referred to and to substitute others in their stead, and to do all other acts necessary for the construction, maintenance and operation of the railway.

Under these powers it appears to me that, when a system of drainage established upon the construction of the railway is subsequently found to be insufficient improve-

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ments may be made therein and such further drainage works executed as will assist in keeping the railway in an efficient condition and relieve it from the danger of injury by water. And I think that, for this purpose, the company may avail itself of the power contained in subsection (*m*) to make drains into or through lands adjoining the railway.

We have been referred to the case of *Kingston and Pembroke Railway Company v. Murphy*, 17 S.C.R. 582. In that case it was considered that a railway completed according to its charter could not be farther extended and lands compulsorily taken for the purpose. It should be noted, however, that that case was decided under the Railway Act of 1879, 42 Vic., c. 9, which did not contain the provisions of subsection (*p*) and (*q*) before-mentioned, and that what the company there sought to do was to construct an extension of its railway, not to alter or repair the works of its existing railway.

The natural meaning of the word 'adjoining' is lying next to or in contact with; contiguous. Such is the sense usually ascribed to it by the courts. See *I Bouv. L. Dict.* 93, 1 Am. and Eng. Enc., pp. 635-8; 1 Cyc. 765; *Rex v. Hodges*, M. and M. 341; *Josh. v. Josh*, 5 C.B.N.S., 454; *Lighthouse v. Higher Bebington Local Board*, 14 Q.B.D. 849. Numerous United States authorities are cited in the dictionary and encyclopedias just mentioned. But, just as in the case of other words, when it is apparent from the context and subject-matter dealt with that the literal meaning of the word would defeat the purpose of the legislature, it must be assumed that the word was used in a different sense. *Moore v. Phoenix Insurance Company*, 64 N.H., 140, 6 Atl. Rep. 27; *Marsh v. Concord Mut. F. Ins. Co.*, 71 N.H. 253, 51 Atl. Rep. 898. See also *L. & S.W.R. Co. v. Blackmore*, L.R. 4 H.L. 610, 39 L. J. Ch. 713; *Coventry v. L.B. & S.C.R. Co.*, L.R. 5 Eq. 104; *Bateman v. Parker* (1899) 1 Ch. 599; *Hobbs v. Mid. R. Co.*, 51 L.J. Ch. 234; *Ind. Coope & Co. v. Hamblin*, 81 L.T. 779, 48 W.R. 438.

The general principle is best stated in the language in *Maxwell on Statutes*, 4th Ed., p. 78. 'The words of a statute are to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the legislature has in view. Their meaning is found not so much in a strictly grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used and the object to be attained.' See also *Beal on Cardinal Rules of Interpretation*, p. 34; *The Dunelm*, 5 P.D. 171 and *Wakefield Local Board v. Lee*, 1 Ex. D., at p. 343.

The statute authorizes the construction of drains into adjoining lands. It is obvious that it must be necessary in many instances to find outlets for the drains or ditches along the sides of the railway tracks, and for this purpose to carry drainage works out of and beyond the land used for the railway right of way according to the natural configuration of the ground. In authorizing the carrying of drains through or under adjoining lands the legislature must have contemplated that the drains should leave the boundary line between the company's lands and those of other owners; and it must have contemplated that the distances to which they would be carried would differ according to circumstances. And it appears to me that the legislature could not have had in view the ownership of the particular parcels or strips of land through which it would be necessary to carry such works. Having once adopted the view—which, as it appears to me, is the necessary view—that under subsection (*m*) the railway company was authorized to carry drains away from the point of contact and into lands of others. I think that it necessarily follows that the power to carry the drains as far as might be reasonably necessary to effect the purpose for which they were to be constructed was included. Naturally such drainage works must be adapted to the formation of the land. It would be unreasonable to suppose that they were to stop at the boundary of the owner of the land next adjoining the railway, leaving the water to run as it would thereafter. In my opinion, ownership should not be treated as an element in determining whether or not the lands are 'lands

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adjoining the railway' for the purposes of a case such as that with which we are now dealing.

After consideration of the report of one of the assistant engineers of the Board and the evidence taken upon the hearing, the chief engineer of the Board has reported that he is 'of opinion that the sooner the water is taken away from the railway at this point the safer it will be for the railway embankment, and that this is necessary for the proper maintenance and operation of the railway.'

Under the amending Act passed at the last session of parliament, the Board is empowered to make an order giving its sanction or approval to any matter, act or thing sanctioned by the general Railway Act. It does not appear to me that the company needs any sanction or approval from the Board to enable it to exercise the power contained in subsection (m) of section 118; but it is convenient that it should submit to the Board proposals for the construction of any such works in order that the Board may exercise some control as to the nature of the works and for the protection of other parties.

The evidence shows that the portion of Mr. Murphy's lot which would be cut off by the proposed drain is of little, if any, value, and that no serious injury would be done to the remainder of his land by the proposed work.

I think, therefore, that the order should go sanctioning and approving the construction of the drain as indicated by the railway company, with a condition that the railway company is to construct and maintain a suitable crossing over the drain for Mr. Murphy at such place and in such manner as shall be approved by an engineer of the board.

Re Express Companies' Contract Forms.

Section 27 of the Act 6 Edward VII., chapter 42, amending the Railway Act of 1903, gave the Board certain jurisdiction respecting express companies and the carriage of goods by express.

Under subsection 10 of that section, certain contracts for carriage by express are not to have any force or effect until first approved of by order or regulation of the Board.

By section 11 any such contracts lawfully in use at the time of the passing of the Act were allowed to be continued to be used and to have effect until November 1, 1906, or until such later date as the Board might by order in any case, or by regulation, fix and limit. Before the said November 1, 1906, a number of express companies submitted forms of contract used by their respective companies with a request for their approval.

Upon an examination and consideration of these forms, the Board decided to extend for six months from the said November 1, 1906, the time within which the forms previously in use could be used by express companies, or for carriage by express, and did extend the time as aforesaid by regulation dated November 13, 1906, with the qualification that the regulation should 'not have the effect of authorizing any company, person, or corporation, after approval of its or his tariffs of tolls by the Board under the provisions of the said Act, to contract or collect in or under any transaction or contract any express toll or tolls within the meaning of the said section 27 higher than the toll or tolls set out in the tariffs so approved, applicable to such transactions or contract.'

Re Express Companies' Tariffs.

Section 27 of the Act, 6 Edward VII., chapter 42, amending the Railway Act, 1903, applies to tolls or charges for the carriage of express matter, either wholly or partly in Canada and between points in Canada and points in the United States by

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any one company, and the provisions of the Railway Act, 1903, with reference to joint tariffs, are applicable to tariffs of express tolls under the amending Act.

Chief Commissioner Killam, November 29, 1906.

CLAIMS AGAINST RAILWAY COMPANIES.

The Board has no jurisdiction to compel the railway company to pay for loss of cattle killed or injured by its trains, or for property burned by fires kindled by locomotives, as the statute expressly provides that relief in such matters is to be obtained by action in a court of competent jurisdiction. The Board, however, has jurisdiction to compel the company to put in proper cattle-guards and highway approaches, where it is the company's legal duty to do so.

Chief Commissioner Killam, November 30, 1906.

Re Rounding off Passenger Tolls.

Section 258 of the Railway Act, 1903, provides '.....; and in estimating the tolls to be charged in passenger tariffs any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents by the company.'

The question was whether, when a special tariff is made up at less rate per mile than the standard tariff rate, the railway company is obliged to apply the principle laid down in the part of the section quoted.

Chief Commissioner Killam, December 3, 1906.

It does not appear to me that a railway company is so bound. Provided the standard rate is not exceeded and the clauses respecting discrimination and other provisions of the Act are not infringed, a special tariff may be made up either upon a uniform mileage rate or otherwise. Even if made up in general upon a mileage rate less than the standard rate, the company may violate that principle in some cases, and make the rates between certain stations upon another basis, arbitrary or otherwise.

I am, therefore, of opinion that a special tariff can be made without attention to the provisions of section 258, provided the fares are expressed in whole, not fractional, multiples of 5 cents. For instance, if a special tariff is made up at a rate of 2 cents per mile for a line where the standard rate is 3 cents per mile, 25 cents may be charged, instead of 22 cents or 20 cents for a journey of 11 miles.

Re Neelon Highway Crossing.

The Railway Act, 1903, does not empower the Board to order or compel a railway construction of a highway across the railway; such leave may be given to the railway company to construct a highway crossing over its railway where no highway has previously existed. The power of the Board in such a case is merely to *give leave* for the company, in which case it will be at liberty, but not obliged, to construct the crossing, or leave may be given to the municipal, or other body, having authority to open up a highway across private property without the consent of the owner. In the latter case the railway company is no more under obligation to bear the expense than a private owner would be.

Re James Bay Railway Company's Application to Cross Grand Trunk Railway Belt Line on Robert Davies' Property

This application came before the Board as the result of an agreement between the two companies made on the hearing of the two actions for injunction between the

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two companies in the High Court of Justice for Ontario. The agreement was that the James Bay Railway Company should apply to the Board for leave to make the crossing, and that on this application the Board was to decide 'which railway is bound to cross the other, and on what terms, and at whose expense the crossing is to be made.'

The evidence before the Board showed that, before the lodging of the application and before the agreement for making it, the James Bay Railway Company had entered upon the property under a warrant of possession and constructed its tracks across the spur in question, although met with forcible opposition by the Grand Trunk Railway Company.

The Board decided that it was unnecessary for the James Bay Railway Company to make any such application, and treated the track on the Robert Davies' property at the point of crossing as not being a railway line or track of another company within the meaning of section 177 of the Railway Act, 1903, but as being personal property, or, if real estate, as the property of Robert Davies, and made an order giving leave to the James Bay Railway Company to construct its line of railway across the spur track in question without putting in a diamond or otherwise providing for the operation of the spur by the Grand Trunk Railway Company across the line of the James Bay Railway Company, and without compensation to the Grand Trunk Company, thus leaving Davies to get such compensation as he might be entitled to under the Railway Act.

The Grand Trunk Railway Company applied to the Board for leave to appeal from this order upon the following grounds:—

'1. That the tracks of the Grand Trunk at the point in question is a railway line of a company, for the crossing of which by the tracks of the James Bay, leave of the Board is required under section 177 of the Railway Act.

'2. That leave of the Board was not necessary in order to enable the Grand Trunk legally to construct (at the point of crossing) the line of railway in question.

'3. That the Grand Trunk Railway Company has an interest in the land at the point in question as against the James Bay, and the James Bay cannot legally use or occupy such land without the leave of the Board.'

Judgment, Chief Commissioner Killam, December 3, 1906.

Held, that if these questions or one of them should be answered in the affirmative, the James Bay Railway Company could not lawfully have placed its tracks over the site of the spur in question without leave of the Board, and that such leave would not have been given upon the terms embodied in the Board's order. Either a diamond should have been inserted, and the proper method of protection at the crossing determined, or some compensation should have been awarded under section 137 of the Railway Act, 1903.

Leave to appeal upon the following grounds granted:—

1. Did the railway tracks from and connecting with the Belt Line railway constitute, where such tracks crossed the approved location of the James Bay Railway over Robert Davies' property, a railway line or track of a company, leave to cross which by the line of the James Bay Railway Company was required under section 177 of the Railway Act, 1903?

2. Could the Grand Trunk Railway Company of Canada legally construct the said railway tracks on Robert Davies' property at the point of crossing by the James Bay Railway Company, without the leave of the Board?

3. Had the Grand Trunk Railway Company, when the James Bay Railway Company constructed its line of railway across the said railway tracks on Robert Davies' property, such an interest in the land occupied by such railway tracks at the said point of crossing as against the James Bay Railway Company that the James Bay Railway Company could not lawfully use or occupy such land without the leave of the Board?

Re Canadian Pacific Railway Spur to Great West Development Company's Premises.

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Judgment, December 5, 1906.

Chief Commissioner Killam:

The Canadian Pacific Railway Company should be asked for some evidence that the proposed spur is necessary in the public interest, or for the purpose of giving increased facilities to business. (Under subsection 4 of section 175 of the Railway Act, 1903.)

Where a body like a city or town consents to the construction of a spur line, the Board frequently takes this as sufficient, or it may consider that the nature of the locality to be served, or some other circumstances, afford sufficient prima facie evidence to satisfy the statute. In the present case there is nothing. We do not know what the Great West Development Company is. It may be only a speculative real estate company; and as the city of Winnipeg does not consent and shows some reluctance to consent to the construction of the spur, there should be some evidence to satisfy the statute.

Station Sites.

By section 256 of the Railway Act, the location of station must be approved by the Board, and in case of a railway which, since July 18, 1900, has been granted a subsidy in money or land by the parliament of Canada, the railway company is required to maintain and operate a railway station or stations, with such accommodation or facilities therewith as are defined by the Board, at such point or points on the railway as are designated by the Board's order; and in any case, every station of a railway company is required to be erected, operated, and maintained with good and sufficient accommodation and facilities for traffic, a provision which, under its general jurisdiction, the Board is authorized to enforce.

The view the Board has taken is that the approval by the Board of location plans which appear to leave spaces for station sites, does not satisfy the provisions referred to, requiring that the locations of stations be approved by the Board, but there must be separate orders expressly approving such sites.

Chief Commissioner Killam, February 11, 1907.

Re Jacob Wright's Farm Crossing.

This was an application by Jacob Wright for a farm crossing over the line of the Canada Southern Railway Company on lot 29, concession 5, in the township of Enniskillen, in the county of Lambton, Ontario.

Wright is the owner of lands on both sides of the railway. The engineer of the Board reported that the applicant had no farm crossing and that the only way to reach the portion of this land lying to the north of the railway was by way of his neighbour's lands, north of the concession line, necessitating a long and out of the way route.

It appears that when the railway was built the lands were owned by the Crown, but were subsequently surveyed and sold to the original owners. The contention of the railway company is that the lands were surveyed and obtained before the construction of the railway but that the right of way across the lot was conveyed to the company without reservation before Wright acquired the land on each side of the railway; that under its original Act of incorporation it was not bound to grant farm crossings to the owners of lands adjacent to its right of way; that the subsequent legislation does not impose upon the company that liability; and that, while not admitting the jurisdiction of the Board to require the making of the farm crossing for the applicant, the company expresses its willingness that such an order be made

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upon the terms of the applicant bearing the cost of construction and maintenance and paying such sum as the Board thinks reasonable and proper for the privilege, taking into consideration the attendant liabilities in connection therewith.

In the similar case of the Ontario Lands and Oil Company v. Canada Southern Railway Company, 1 Ontario L. R. 215, Meredith, J., decided that the railway company was not bound, under its Act of incorporation and the general Railway Act in force when the railway was built, to grant farm crossings, and that the Dominion Railway Act of 1888, which was enacted after the construction of the company's railway, did not apply to cases in which the railway had been previously constructed on land conveyed to the company and the owner of adjoining land had purchased subsequently to such conveyance, as, in his opinion, the railway could be said to be carried over the land of a person where such person did not acquire the property until the railway was constructed.

Chief Commissioner Killam:

I agree with Meredith, J., in thinking that the decision of the Supreme Court of Canada, in *Vezina v. the Queen*, 17 S.C.R., 1, conclusively established that, under the general Railway Act in force when the Canada Southern Railway Company was incorporated and when its line was constructed, a company was not bound to grant farm crossings over its line where a right thereto was not reserved in the grant or otherwise agreed to by the company; and I am also of opinion, with him, that where, prior to the passing of the Act of 1888, a person had acquired lands on opposite sides of a railway across which his predecessor in title had the right of way of crossing, the Act of 1888 did not operate to give that right to the new owner. In my opinion, also, the Act of 1888 cannot properly be construed retroactively so as to apply to a railway previously constructed on lands vested absolutely in the company. Section 190 of the Act of 1888 provided—as did section 198 of the Act of 1903—that ‘every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway.’ &c. According to my interpretation, this provision is applicable only to cases in which the railway has been carried across a person's land since the enactment of the Act of 1888. I have formed this opinion after consideration of the jurisprudence in the province of Quebec, and particularly the cases of *Bolduc v. Canadian Pacific Railway Company*, Q.R. 23 S.C. 238, the *Grand Trunk Railway Company v. Huard*, Q.R. 1 Q.B., 501.

For the purposes of the application, therefore, it does not appear material to ascertain whether the railway was constructed before or after the grant from the Crown. I think that the applicant has no absolute legal right to the crossing, and that it can be granted by the Board only in the exercise of the discretion given by section 253 of the Railway Act (subsection 2 of section 198 of the Railway Act, 1903), which provides as follows: ‘.....’

Under the report of the engineer I think that we may properly find that the crossing is necessary for the proper enjoyment of the applicant's land on either side of the railway, and that it would be safe in the public interest; but as such an order is one to which the applicant is not entitled of right, and as it would have the effect of creating an easement over property which belongs absolutely to the railway company, and would involve some danger to the company's trains, any expense of construction and maintenance should be borne by the applicant, and the company should receive reasonable compensation.

Deputy Chief Commissioner Bernier expressed the view, in which Mr. Commissioner Mills concurred, that the railway company should undertake to open, construct and maintain a farm crossing at its own expense; and under the ruling of the Chief Commissioner that the Board has jurisdiction to make an unconditional order requiring the railway company to construct the farm crossing in question, although

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he did not depart from his previously expressed opinion, the order issued February 15, 1907.

Judgment in concurrence, Mr. Commissioner Mills.

From the report of an engineer of the Board in this case, it seems clear that Mr. Wright's application for a farm crossing should be granted; and the only question is, at whose expense is the crossing to be made and maintained.

After full consideration of the principle involved and its wide application to Crown and Company lands in the western provinces and elsewhere, I am of the opinion that farm lands everywhere, actually occupied or to be occupied, carry with them the right of free passage (saving natural obstacles) from any one part of a lot to any other part of the same lot, which lot is or is to be occupied and worked as a farm; and that when a railway company or other corporation, for its own purposes and advantages, infringes upon this natural and fundamental right, it should do so with the clear understanding that it will, when constructing its line or at some later date, be compelled to provide and thereafter maintain, at its own expense, at least one adequate and satisfactory farm crossing on every lot or farm which it crosses.

Therefore, I concur in the judgment of the Deputy Chief Commissioner, that the Michigan Central Railway Company, as the successor of the Canada Southern Railway Company, should provide and maintain, at its own expense, an adequate and satisfactory farm crossing, at a point to be agreed upon, on the farm of Jacob Wright, known as lot 29, con. 5, in the township of Enniskillen, county of Lambton, Ont.

Re Complaint of the Dominion Concrete Company, Limited.

This company applied for an investigation by the Board into the matter of the Canadian Pacific Railway Company's rate of 12 cents per hundred pounds on concrete blocks from Kemptville, Ont., to Graham station, a distance of 107 miles, as against a rate of 6½ cents per hundred pounds on brick, and alleging an unjust discrimination in favour of the latter commodity and against the former.

This matter was taken up by the chief traffic officer of the Board, and after considerable correspondence with the railway company the rate on concrete was reduced and made satisfactory to the complainants. After the lower rate had gone into effect complainants claimed to be entitled to a refund of the difference between the higher and the reduced rate. The railway company refused to recognize any such claim and the complainants applied to the board for an order directing a refund.

Judgment, Chief Commissioner Killam, March 5, 1907.

Under the Railway Act a railway company is required to obtain approval of what are called standard tariffs specifying the maximum mileage rates which the company is authorized to charge, and upon approval of such tariffs, the company is authorized to charge the rates set out therein, unless it files special tariffs giving lower rates than those in the standard tariff; and section 327 of the Railway Act provides that, when a railway company's standard freight tariff has been approved and published, the tolls specified therein—except where other tolls are provided for by special or competitive tariffs—are the only tolls which the company is authorized to charge for the carriage of goods; and, by section 401 of the Railway Act, 'any person or company, or any officer or agent of any company, (a) who shall offer, grant or give or shall solicit, accept, or receive rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic shall, by any device whatsoever, be transported at a less rate than that named in the tariffs then in force..... shall for each offence be liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars.' The authority of the Board

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to deal with tolls and tariffs, as set out in section 323 of the Railway Act, is as follows: 'The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

'2. The Board may designate the date at which any tariff shall come into force.'

Held, that this does not empower the Board to make retroactive alteration in a tariff which is not contrary to any of the provisions of the Railway Act, so as to apply the alteration to past transactions; and that the railway company is not entitled to make rebates from tolls which have been charged in accordance with the tariffs lawfully existing when the transaction took place.

Held, further, that the Board has no authority to direct the Canadian Pacific Railway Company to refund any portion of the tolls charged by it under the tariffs existing before March 20, 1906.

A later application was made by complainants against this ruling of the Board, and it was argued that as the Board had power to designate the date at which any tariff should come into force, this could be done so as to give the same a retroactive effect.

Held, Chief Commissioner Killam, March 20, 1907, that the power of the Board to designate the date at which a tariff shall come into force does not enable the Board to give such tariffs a retroactive effect, and to make them applicable to prior shipments.

Discrimination.

Railway companies have no right to discriminate in regard to passenger rates as between passengers arriving at Canadian ports by different steamers. By sections 315 of the Railway Act tolls are required, under substantially similar circumstances and conditions, to be charged equally to all persons and at the same rate in respect of all traffic of the same description, and carried in or upon the like kind of cars, passing over the same portion of the line of railway; and that no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any person or company travelling upon or using the railway.

Chief Commissioner Killam, March 7, 1907.

(Immigrant Passenger Tariffs.)

Re Complaint Brown Brothers Company v. Canadian Northern Railway Company.

The complainants alleged that on May 2, 1906, they delivered to the Canadian Northern Railway Company at Warman, Alberta, two boxes of nursery stock, consigned to L. H. Daly, of Vegreville, Alberta, and that the shipment proved a total loss to them, occasioned by the neglect or refusal of the railway company to carry and deliver the traffic without delay.

It appeared from the answer filed on behalf of the railway company to this complaint that a period of fifteen days had elapsed from the time of receipt at Warman Junction until their arrival at Vegreville, a distance of 262 miles, and the railway company was advised that the Board felt that, under the circumstances, it should take into consideration the Brown Brothers Company's claim for damages, and that such steps should be taken as would prevent the recurrence of such delays.

Held, Chief Commissioner Killam, March 12, 1907, that, under the Railway Act, the Board has not power to award compensation to parties for delays in forwarding traffic, as the Act expressly provides that the remedy is to be had by action in the ordinary courts; that the function of the Board is to require the furnishing of accommodation and the forwarding of traffic without delay, while the circumstances admit

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of the Board interfering; but that, in case of a transaction which is closed, the Board can only deal with it as showing the necessity for action to prevent such delays in the future.

Re Complaint of Canadian Cannery, Limited.

This was a complaint by the Canadian Cannery, Limited, that the Canadian Pacific Railway Company charged a rate of 33 cents per 100 lbs. on a carload of canned goods shipped from Wellington, Ontario, to Sturgeon Falls, Ontario; or 4 cents per 100 lbs. more than the combination of the local rates from Wellington to North Bay and from North Bay to Sturgeon Falls.

Upon the application of the complainants, the railway company refused to refund the difference between the published rate of 33 cents and the combination of local rates, on the ground that it would be illegal to protect other than the published tariff rate, namely, 33 cents per 100 lbs.

The application to the Board is for authority to make the refund.

Judgment, Chief Commissioner Killam, March 12, 1907.

Held, that, not only would the railway company be justified in refunding the difference between the fifth-class rate from the point of shipment to Sturgeon Falls and the sum of commodity rate to North Bay, and the fifth-class rate from North Bay to Sturgeon Falls, but that it ought to do so. The later two rates are those of lawfully published tariffs; and a shipper has the right to the carriage of his traffic at the commodity rate to North Bay, and at the tariff rate from North Bay to Sturgeon Falls, although he consigns his shipment direct to Sturgeon Falls without mentioning the intermediate point.

It may happen that ignorant shippers will not be given this privilege, while those better informed will obtain it; but the uninformed shipper should not, on that ground be refused the lower rate.

Re Somerset Bridge, Ottawa.

The city of Ottawa applied to the Board for an order under sections 186 and 187 of the Railway Act, 1903, directing the Ottawa Electric Railway Company, the Grand Trunk Railway Company of Canada, and the Canadian Pacific Railway Company to submit a plan and profile for the purpose of widening the bridges and approaches thereto constructed by them at Somerset street, a public highway in the city of Ottawa.

The bridge in question spans the tracks of the Canada Atlantic Railway and the Canadian Pacific Railway at the western boundary of the city. The eastern approach and bridge proper lie within the city of Ottawa, the western approach within the village of Hintonburg. The Ottawa Electric Company, which is subject to the legislative authority of the parliament of Canada, owns and operates a street railway system in the city of Ottawa and its suburbs. The portion within the city was constructed and is operated under an agreement between the city and the company authorizing the company to exercise its franchise for the period of thirty years from August 13, 1893. By a later agreement between the electric company and the city, the city consented to the construction, maintenance and operation by the electric company of its railway upon and along Cedar street and other streets in the city, and by this agreement it was provided that nothing contained therein, or in the original agreement between the city and the company, or in the by-law of the City Council ratifying these agreements, should be 'construed to impose any liability on the corporation for the construction, repair, or maintenance of bridges on Cedar street, crossing Canada Atlantic Railway lines and the Canadian Pacific Railway lines, or any bridge or bridges that may be constructed in place of the same; or should be 'construed as an assuming by the corporation of the said bridge or either of them.'

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The street referred to as Cedar street is the one now known as Somerset street, on which the bridge in question is situated.

By agreement between the Electric Railway Company, the Canadian Pacific Railway Company, and the Canada Atlantic Railway Company, for certain considerations therein named, the Electric Company agreed from time to time and at all times thereafter, to 'indemnify and save harmless the railway company from and against all liability to maintain, alter, repair, or reconstruct the said bridge or the approaches thereto, and also from and against all claims for damages of every kind or nature whatsoever, or for any penalty imposed upon the said bridge or crossing, or the approaches thereto'; and further agreed that, if it should at any time become necessary to reconstruct the then existing bridge or to alter the same, plans of the said alteration or of the new bridge to be constructed should first be submitted to and approved by the railway company.

The substantial question for consideration was as to the body which should bear the cost of the alteration. The city, through its counsel, offered to bear one-fourth of the expense. The railway companies contended that, in view of their agreement with the Electric Company, and of the fact that the necessity for the widening of the bridge arises wholly from its use by the Electric Company, that company should bear the remaining portion of the expense.

Judgment, Chief Commission Killam, March 13, 1907.

Held, that, as between the Electric Company and the two railway companies, the contention of the railway companies was correct, and that, as between the Electric Company and the city, the Electric Company should widen the bridge by sixteen feet according to the plans to be approved by the Board, and that the city should pay the Electric Company one-fourth the expense involved in the addition.

Passenger Rates.

By order of the Board, dated March 18, 1907, the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company were directed to reduce the passenger rates for their lines east of and including the Calgary and Edmonton Railway, to three cents per mile.

Re The E. B. Eddy Company's Complaint.

This company has asked the Board to give the Grand Trunk Railway permission to reduce its charges on certain traffic carried at the rate of 10 cents per 100 lbs. under the tariff in force at the time, to 8 cents per 100 lbs. subsequently substituted.

Section 327 of the Railway Act provides that, when a railway company's standard freight tariff has been approved and published, the tolls specified therein—except where other tolls are provided for by special or competitive tariffs are the only tolls which the company is authorized to charge for the carriage of goods. Section 401 imposes a penalty on any person or company, or any officer or agent of a company offering, granting, giving, soliciting, accepting or receiving any rebate, concession or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic shall, by any device whatsoever, be transported at a less rate than that named in the tariffs then in force; and section 402 makes it an offence in a company to depart from the tolls in a tariff then lawfully in force.

Judgment, March 18, 1907.

Held, that the Act gave the Board no power to permit a departure from the lawfully existing tariffs in respect of past transactions, or to legalize rebates from the previously earned tolls specified in such tariff; and on this ground, the Board should not attempt to interfere. 'In the present instance an attempt to exceed the Board's

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power seems to be particularly objectionable, because the Board would not be able to secure to others in a similar position the rebates which the Eddy Company desires, but by becoming a party to the rebate, it would facilitate an undue preference in favour of one shipper.'

Judgment in dissent, Mr. Commissioner Mills.

On October 16 and 17, the E. B. Eddy Company thought of shipping pulp for the manufacture of paper from Danville, Que., to Ottawa, Ont., and called the attention of Mr. Bremner, who represented the Grand Trunk in Ottawa, to the fact that the 10 cent rate quoted on pulp from Danville to Ottawa was prohibitive, and that they could not ship pulp from Danville to Ottawa at a higher rate than 8 cents per 100 lbs.

After considering the question, Mr. Bremner, on behalf of the Grand Trunk, advised the E. B. Eddy Company that the Grand Trunk would give the said company a rate of 8 cents per 100 lbs. from Danville to Ottawa. The Eddy Company accepted the 8-cent rate and notified Mr. Bremner that some cars were then being loaded; and Mr. Bremner says that the Eddy Company was then notified that the 8-cent rate would not apply on cars shipped prior to the date on which the tariff became effective. The correctness of this latter statement, the Eddy Company does not admit, but alleges that in good faith, without any doubt that the 8-cent rate would apply, it shipped five cars of pulp between the time that the 8-cent rate was announced and the publication of the tariff to that effect.

Subsequently the Grand Trunk Company rendered a bill for \$153.68, being an extra charge of two cents per 100 lbs. on six cars pulp shipped between the time of the announcement of the 8-cent rate and the publication of the tariff, 9 days later.

In reference to this account, the E. B. Eddy Company sets forth the following declarations and statements of opinion:—

It declares that it shipped five of the six cars in good faith after the reduction was announced, and had no doubt that the rate was to be 8 cents per 100 lbs.

It expresses the opinion that nine days was altogether too long a time to take in issuing the tariff, and directs attention to the statement of the chief traffic officer that the said tariff could have been issued much sooner, if it had been done in the way which is usual when it is known that cars are loaded or being loaded and waiting for shipment.

It calls attention to the fact that the application of the 8-cent rate from the date of the announcement would not involve a discrimination against any one.

And it further alleges that the Grand Trunk is willing to withdraw or cancel this account for extra charges over and above the 8-cent rate, if the Railway Commission will allow it to do so.

I think the intention of parliament, as expressed in section 401 of the Railway Act, was to prevent all kinds of *discrimination*—not to compel a railway company to continue charging an admittedly unreasonable or prohibitive rate until such time as it can conveniently prepare and issue a new tariff, when the said company is willing to make a reduction in such unreasonable or prohibitive rate as soon as its attention is called to the matter (before a change in the tariff is made)—provided such reduction is made with the knowledge of the Railway Commission and manifestly *without discrimination* against any one.

Such a reduction, under such circumstances and conditions, the Grand Trunk Railway Company announced its willingness to make in the published tariff rate on pulp from Danville, Que., to Ottawa, Ont.; and under such circumstances, I think the Board should allow the said railway company, without injury or discrimination against any one, to apply its 8-cent reduced rate from the time when it announced its intention to make the reduction from 10 to 8 cents per 100 lbs.

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Re Application of the Toronto, Hamilton and Buffalo Railway Company, under section 175 of the Railway Act, 1903, for leave to construct a branch from its main line in the City of Hamilton to the works of the Canadian Westinghouse Company.

The projected line would cross Sherman avenue south of Princess street and run thence, approximately, parallel to and about 125 feet south of that street, and parallel to, and some 350 feet south of, the line of the Grand Trunk Railway Company crossing at grade, between certain points, the line of the Hamilton Radial Electric Railway Company and curving northerly, about Fullerton avenue, a short distance from the Westinghouse Company's works.

Objection was made to this line by the residents of the locality west of Sherman avenue and between the proposed line and that of the Grand Trunk Railway Company, on the ground that it would be very injurious to them that their properties should be inclosed within a strip bounded by two lines of railway; and the Radial Company objected to a crossing of its line at grade. The Grand Trunk Railway Company also objected to the use of any portion of its right of way for the proposed branch.

Judgment, Chief Commissioner Killam, March 28, 1907.

I am of opinion that it would not be reasonable to compel the Grand Trunk Railway Company to allow such a use of its land at that point.

I am also of opinion that it would not be proper to allow the construction of the branch beyond Sherman avenue south of Princess street. This would leave a strip of property about fifteen hundred feet long by three hundred and fifty feet in width between two lines of railway. At the present time the property between Sherman avenue and the Westinghouse Company's property is wholly residential, and even though the proposed branch were simply to be used as a spur line for access to the Westinghouse Company's works, it would be highly injurious to the residents of such a strip. It may be that circumstances will lead to the strip becoming eventually a manufacturing locality; but, unless it is sufficiently important, the residents should not be forced to this result.

On behalf of the city of Hamilton, objection is made to the proposed lowering of the Radial railway, as this would involve the lowering of Princess street below a large existing sewer, and in such a manner as would injure Princess street for public travel.

While one or more industries are to be served east of Sherman avenue, the extension beyond that is for the purpose of giving access to the Westinghouse Company's works only. If that company did not object, it would be possible to carry the line along that of the Grand Trunk Railway directly into the Westinghouse Company's premises. Doubtless it will be of great value to that company to have the additional railway connection and service, but it has already connection with the line of the Grand Trunk Railway, by means of which traffic can be transferred to and from the line of the Toronto, Hamilton and Buffalo Railway.

No public interests are involved, and it does not appear to me that the residents of the locality should be compelled to submit to the injury that would be done their property or that the Radial Company should have its line crossed at grade in order to enable the Westinghouse Company, which desires the railway communication, to procure it without injury to its own buildings or premises.

Held, Commissioner Mills dissenting, that the application for leave to construct the spur line on the route proposed should be refused, but that authority should be granted, if the applicant company desired, to construct a branch line with the diversion northwesterly over Sherman avenue to the south of the Grand Trunk Railway Company's right of way, and thence parallel thereto over the radial railway to Rosedale avenue, and to take it directly to the Westinghouse Company's premises, or have it connected with the Grand Trunk Railway tracks, as might be arranged, or that leave should be given for the construction of any portion of the line which might be desired.

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Re Cedar Dale-Oshawa Crossing.

This was an application by the police village of Cedar Dale for an order directing the Grand Trunk Railway Company of Canada to provide better protection where its railway crosses Simcoe street, in the said village.

There was at the same point an electric railway crossing the Grand Trunk Railway, with interlocking appliances operated by the electric company, and the Board, by its order of December 19, 1906, directed that the gates be interlocked with those appliances and be operated by the signalman stationed in the tower, and that the Grand Trunk Railway Company should bear the expense incident thereto over and above the expense to which the electric company was subject. The Board also directed that an electric light should be provided and maintained by the village at the crossing.

Simcoe street, over which the Grand Trunk Railway crosses is a continuation of a street of the town of Oshawa but the point of crossing is outside the limits of the town. Counsel for the town supported the application for the order and took part in the examination of witnesses. Among other things he said: 'This corporation is interested in having the lives of the citizens protected—their lives and property—and would urge upon the commissioners as strongly as possible the propriety of providing such protection as may be thought proper.' And after reference to the probable expense of a subway he said: 'But all the other protection that could be afforded would be urged by this corporation.' Further he said: 'The town council do not see that they should be called upon to contribute. They contribute an immense amount of business to the railway.'

In announcing to the parties its conclusions the Board expressed doubt whether the town could be considered interested so as to be liable to be made a contributory to the cost of protection of the crossing and intimated that, if the railway company should be of opinion that the town was so liable, the Board would like to be furnished with references to any statutory provisions imposing on the town or bestowing on it any rights with respect to a highway outside the boundaries of the town; and it also stated that it considered that the village of Cedar Dale was not in such financial position that it should be asked to contribute, except by providing and maintaining a light at the crossing.

The Grand Trunk Railway Company then applied to have the order varied so as to apportion the cost of the installation, operation and maintenance of the gates equally among the town of Oshawa, the village of Cedar Dale and the railway company, claiming that the town was interested in the matter and should be compelled to contribute, and that the weak financial position of the village was no sufficient ground for exempting it.

This latter application was heard before the Board. In support of the claim of interest on the part of the town, reference was made to the position taken by the counsel for the town at the previous hearing, and to the case of the Grand Trunk Railway Company v. City of Kingston, 8 Ex. C. R. In that case an application was made to have certain orders of the Railway Company of the Privy Council made rules of the Exchequer Court. By these orders, the city of Kingston was directed to contribute to the expense incident to the construction of a subway for carrying a highway under the Grand Trunk Railway outside of the city limits; and objection was made to the authority of the Railway Committee to impose this condition. The learned judge of the Exchequer Court was of opinion that he had no authority to review the decision of the Railway Committee upon the merits or its methods of procedure. He said: 'Was the city of Kingston interested in the works that were directed to be done?' If that question is answered in the affirmative, the Railway Committee had jurisdiction to make the orders as amended. If it is answered in the negative, then the committee had no jurisdiction to impose upon the city of Kingston the obligation to bear any part of the cost of such works. I think the question should

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be answered in the affirmative. Although the works directed to be carried out are not within the limits of the city of Kingston, they are in close proximity thereto, and are intended to protect the public from danger of crossing the Grand Trunk Railway by a level crossing on a road that, within a short distance from the crossing, connects with one of the city streets. In addition to this it appears that the city of Kingston was one of the movers in the application to the railway Committee for an order to have the works in question undertaken; and it seems to me that one could not now with fairness say that the city of Kingston was not interested therein.'

In *re* Canadian Pacific Railway Company and county and township of York, 27 O.R. 559; 25 O.A.R. 65, Mr. Justice Rose upheld the validity of an order of the Railway Committee under which the city of Toronto, the county of York and the township of York were directed to contribute to the cost of installing and maintaining gates and a watchman for the protection of a highway crossing which was in the township of York and outside the limits of the city of Toronto. The order of the Railway Committee had been made upon the application of the city of Toronto. The county and township of York appealed from the judgment. Burton, C.J.O., and Maclellan, J., were of opinion that the order was invalid in so far as it imposed a burden upon the township and county. Osler, J., held that the township and county were 'persons interested' within the meaning of the Railway Act, and subject to the jurisdiction of the committee. Meredith, J., held that, as the road was not a county road, and the county was under no responsibility for its maintenance, it could not be considered to be interested so as to be liable to the order of the committee.

The city of Toronto did not appeal, and it does not appear to have been represented before the Court of Appeal. As the original applicant for the order, it could hardly be said that it was not interested.

Chief Commissioner Killam:

In the two cases referred to, the courts were called upon to enforce orders made by the Railway Committee. They could not review the decisions of the committee upon the facts. If there was before the committee any evidence that the parties ordered to contribute were 'interested' within the meaning of the statute, the jurisdiction of the committee to make the orders could not be disputed.

In the present case this Board is the court of original jurisdiction which has to decide for itself, not merely the question of law, but also the question of fact, as regards interest, and further, whether, in the exercise of its discretion, it considers that the town should justly and properly be made to contribute to the cost of protecting the crossing in question.

I think that it cannot properly be said that, as a matter of law, there is not some evidence of interest on the part of the town which would support an order of the Board against it, particularly in view of the direct claim of interest on the part of counsel representing the town. But it does not appear to me that the town is necessarily bound by the admission of some interest, having in view the circumstances and the nature of the interest admitted. The town corporation is a statutory body. It has no duty to maintain highways outside of the town limits, or to preserve them from obstruction. It is not authorized to expend the moneys of the town upon such highways. As a public body, having in view the interests of the citizens, a town council often interests itself in many matters of public importance not directly coming within its functions. Naturally the safety of citizens of the town travelling along the highway and over the crossing in question is looked upon by the council as of public interest; but it does not appear to me that, on that account, the municipal corporation can be said to have any legal interest in the matter of protecting the crossing. The individual interests of citizens having occasion to use the highway are not, in my opinion, ascribable to the corporation, and the admission of the counsel for the town, and the part which he took in supporting the application, do not appear to me to

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carry the matter farther or to constitute such an admission or evidence of interest as to warrant the Board in finding as a matter of fact that there was such interest.

I think, therefore, that the town should not be ordered to contribute to the expense of erecting, maintaining, or operating the gates.

As regards the village of Cedar Dale, the matter stands in no different position from that presented at the original hearing. I do not think that the Board should be called upon in such a case to revise its previous decision, where no new facts have been presented and no material point was previously overlooked. In making the order the Board expressed its doubt upon the question of making the town a contributory. That question was fairly open for consideration.

In my opinion the application should be dismissed, and the railway company should be ordered to pay to the village a reasonable sum for costs of the application to vary the order. In view, however, of the state of the previous decisions and of the position taken upon the hearing by the town, I do not think that the railway company should be made to bear any portion of the costs of the town.

Order dated May 23, 1907, issued accordingly. Costs of the application fixed at the sum of \$25.

Re St. John Ice Company Complaint.

This was a complaint by the St. John Ice Company alleging that the New Brunswick Southern Railway Company was acting illegally and in violation of the provisions of the Railway Act by

1. Billing cars at 20,000 lbs. which contained 40,000 to 50,000 lbs. actual weight.
2. Billing cars at 2 cents per 100 lbs. contrary to C.R.C. No. 1, their standard tariff, which names $2\frac{1}{2}$ cents per 100 lbs.

3. Billing cars at 20,000 lbs. contrary to the Canadian freight classification, which specifies 30,000 lbs. as minimum carload weight.

4. That through W. E. Scully, their agent at West St. John, passing and billing as 20,000 lbs. cars which W. E. Scully as 'The Union Ice Company' had sold and delivered as 50,000 lbs.

5. Misrepresenting the existing tariff charges in the following way: In December last past their general freight agent, Mr. P. W. Wetmore, quoted as their current rate on ice from Spruce Lake to West St. John 2 cents per 100 lbs., minimum carload weight 30,000 lbs., when he must have known that tariff C.R.C. No. 2, giving a rate of 2 cents per 100 lbs. had been cancelled and that $2\frac{1}{2}$ cents per 100 lbs. was the legal rate, as per C. R. C. No. 1.

6. Through the collusive action of its officials violating the established tariffs, inasmuch as P. W. Wetmore, the accountant, who was also general freight agent, passed entries and way-bills, certified by him and F. J. McPeake, the superintendent, to the auditor, showing carload weights 20,000 lbs. when actually they were from 40,000 to 50,000 lbs., showing a total freight per car of \$4 had been collected when it should have been from \$10 to \$12.50 per car.

And applied, under section 60 of the Act, for an order for inquiry into the management of the said railway company, and for investigation of the complaints hereinbefore recited against the company and its officials.

Hearing at St. John.

Ordered, that leave be granted the complainant company to institute proceedings, under sections 399, 401 or 402, of the Railway Act, against the company for suffering or permitting.

(a) W. E. Scully to obtain transportation for goods at less than the required toll then authorized and in force on the railway of the company.

(b) For transporting goods for the said W. E. Scully; and for suffering and permitting W. E. Scully to obtain transportation for such goods at less than the regular

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tolls then authorized and in force on the railway in violation of the provisions of the Railway Act.

Later, application was made, on behalf of the complainants, for a certified copy of this order, in order that the same might be made a rule of the Supreme Court under section 46 of the Railway Act.

Section 46 provides that any decision or order made by the Board may be made a rule, order or decree of the Exchequer Court, or of any Superior Court, in any province of Canada.

Subsection 2 of that section reads:—

‘2. To make such decision or order a rule, order or decree of any such court, the usual practice and procedure of the court in such matters may be followed; or in lieu thereof, the secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chief Commissioner and sealed with the official seal of the Board;

‘To move to make the within a rule (order or decree, as the case may be) of the Exchequer Court of Canada (or as the case may be).’

Application refused.

Held, Chief Commission Killam, that, in the first instance, the usual practice and procedure of the court in such matters should be followed; that the other alternative provided under this section is intended rather for a case where the Board is itself seeking to enforce one of its own orders, that is to say, an order where the Board has taken the initiative.

Vancouver Eastbound v. Winnipeg Westbound Rates.

The boards of trade of British Columbia Pacific coast cities complained to the Board that the rates levied by the Canadian Pacific Railway Company on all classes of goods, from Vancouver to points located in British Columbia and the Northwest Territories, as far east as Calgary, on the main line, and Macleod, on the Crowsnest line, were discriminatory as against them as compared with the rates on westbound traffic from Winnipeg to the same territory.

The complaint was not based on the ground that the rates were, in themselves, so excessive as to be unreasonable or unjust, but merely on the ground that undue preference was given to traffic from Winnipeg westward, as compared with that from the coast cities eastward.

Most of the traffic carried westward from Winnipeg is carried under what are known as ‘traders’ tariffs,’ marked as, ‘to be used on reshipment by Winnipeg wholesale houses only to traders doing business at or tributary to stations specified’ in the tariffs. A question was raised as to the extent to which those tariffs were used, and the railway company contended that comparison could not be made with them, as the rates were only the balances of through rates from points east of Winnipeg to the western points in question, after deducting the regular tariff rates to Winnipeg.

Hearings at Ottawa, March 6, 7 and 8, 1906.

Judgment of Chief Commissioner Killam, May 25, 1907, concurred in by Deputy Chief Commissioner Bernier.

‘It appears to me,’ referring to the contention of the railway company mentioned above, ‘that these questions are quite immaterial. If, by so basing the rates, an unjust preference is given to Winnipeg as against the Pacific points, it is equally as objectionable as if the rates were computed on any other basis, and the comparison should be made with traffic carried for similar parties and under similar conditions, and on other traffic the tariffs applicable thereto are those between which comparison should be made.

The complainants rely mainly on a comparison of the respective distances from Winnipeg and Vancouver, claiming that the levying of higher rates for shorter dis-

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tances raises a presumption of unjust discrimination. They rely also upon a comparison of the practice upon lines in the United States, claiming that the westbound rates from St. Paul are equalized with the eastbound rates from Seattle and Portland at points much farther east than are the rates from Winnipeg with those from Vancouver on the Canadian Pacific Railway.

It appears to me that no inference can be drawn from a mere comparison of distances upon different portions of railways, and that it does not constitute discrimination—much less unjust discrimination—for a railway company to charge higher rates for shorter distances over a line having small business or expensive in construction maintenance or operation, than over a line having large business or comparatively inexpensive in construction, maintenance and operation.

In my opinion, a party raising such a complaint upon a mere comparison of distances should show the nature of the particular lines referred to and that there is a material disproportion of rates as against the shorter line after due allowance is made for the circumstances just mentioned.

At the hearing, the complainants offered no evidence upon these points; but the railway company gave some evidence showing that the cost of maintenance and operation were much greater, and the traffic lighter, upon the western portion of the line, than upon the portion from Winnipeg westward. While this showed that some difference in rates as compared with distances was reasonable, the information given was not sufficient to form an accurate judgment as to whether, after making due allowance for difference of traffic and expense, the western rates were unduly high as compared with the others.

As the matter was of considerable public importance, the Board did not feel warranted in dismissing the complaint on the mere ground that no sufficient proof of discrimination had been given, but directed its chief traffic officer to make further inquiries and afford it all the information possible for the purpose of enabling it to arrive at a correct conclusion. This inquiry has been made, with the result that the figures given by the railway officials have been found to have been, in the main, correct, and that some further information has been procured.

Members of the Board are aware, from personal investigation of the route, that grades are much heavier and the line much more difficult of operation in British Columbia than in the prairie provinces, and this view has been clearly established by the evidence.

The original report of the chief traffic officer showed that, by computations based upon the evidence as to the cost of operation and maintenance upon different sections of the main line of the railway, the rates from Vancouver to Calgary were really lower, as compared with those from Winnipeg to Calgary, than if they were based upon the proportionate expense. No accurate data were furnished by the evidence, or by the subsequent reports of the chief traffic officer, for comparison of the expense of operation and maintenance on what is known as the Crowsnest route, with that for the prairie lines, though the chief traffic officer reported that the Crowsnest line was much the more expensive to operate. He, however, made some further calculations based on a comparison of grades and the assignment, as a result thereof, to portions of the lines in British Columbia of a constructive mileage at the rate of one and a half miles from Yale to Revelstoke, and two miles from Revelstoke to Canmore, for each actual mile of railway. This estimate was taken from a statement in a letter of Mr. MacInnes, freight traffic manager of the Canadian Pacific Railway Company, that a certain tariff of the company was based upon such constructive mileage. This calculation showed that, using the constructive mileage thus estimated, the rates from Winnipeg westward were less per mile than those from Vancouver eastward. It appears to me that the results of such estimates afford no reliable basis for concluding that the Vancouver eastbound rates are discriminatory as compared with the Winnipeg westbound rates. The estimates are very loose, and are not based upon any

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definite calculations. Those based upon actual figures as to comparative expense of operation and maintenance are much more reliable, even though, in some respects, details are not fully given. Although the company may in the past, for some purposes, have made use of such estimates, this should not be taken as establishing that the estimates were sufficiently accurate for the purposes of the complaint now in question. It is clear that an absolutely accurate comparison cannot be made, and the evidence does not appear to me sufficiently strong to warrant the conclusion that the eastbound rates are unduly high as compared with the westbound ones.

The report of the traffic officer further shows that the rates from Vancouver eastward are lower than those in the United States lines, and this although the portions of the United States served by these lines are much more productive and thickly settled, and afford greater local traffic than British Columbia; and, also, that the points at which the eastbound and westbound rates meet in the United States are considerably nearer Seattle than is claimed by the complainants; and that, comparing the proportionate distances from Winnipeg and Vancouver respectively with those from St. Paul and Seattle respectively, the average points of meeting of the rates on the Canadian Pacific Railway are as fairly situated as the points on the lines in the United States.

So far as the traffic over the Crowsnest line is concerned, it would be much more satisfactory if more definite information as to the cost of operation had been procured; but, taking into consideration the respective rates over that line and over the main line via Calgary to Macleod, and the results of the other inquiries, it does not seem to me sufficiently probable that further inquiry would establish the unfairness of the rates to warrant us in making such inquiry. It must also be remembered that the traffic on the prairie sections of the Canadian Pacific Railway is very much greater than that upon the lines in British Columbia; that the earnings per mile of the company for the prairie lines are very much greater than in British Columbia, and that the company may reasonably be expected to carry the traffic on the prairie lines at lower rates than upon the other lines. At any rate, if it sees fit to do so to a reasonable extent, it cannot well be claimed that this course involves unjust discrimination as against the traffic in and through British Columbia.

There are two minor points which require consideration. One arises under special commodity tariffs for westbound traffic from Winnipeg upon the classes of articles named in the statute 60-61 V., c. 5, s. 1 (*d*), intituled 'An Act to authorize a subsidy for a railway through the Crowsnest Pass.' That Act authorized the granting to the Canadian Pacific Railway Company of a subsidy towards the construction of a railway from Lethbridge, through the Crowsnest Pass, to Nelson, upon certain conditions, one of which was that an agreement should be made between the government and the company by which, among other things, a reduction was to be made in the general rates and tolls of the company upon the classes of merchandise therein mentioned westbound from and including Fort William and all points west of Fort William on the company's main line, or any line of railway throughout Canada owned or leased by or operated on account of the company.

As a result of this Act and the agreement made under it, the company made tariffs of reduced rates upon the classes of merchandise referred to, not only from Fort William and points east thereof westward, but also from Winnipeg westward, without similarly reducing rates on the same classes of merchandise from Pacific points eastward. These reductions cannot be considered as having been forced upon the company, but were the result of an agreement which it chose to enter into for the purpose of obtaining a subsidy in aid of the construction of a line of railway. The agreement and the statute did not even deal with rates from Winnipeg at all. When the statute was passed, and when the agreement was made, the law prohibited unjust discrimination between localities; and while parliament did not stipulate for

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similar reductions over western portions of the company's railway, it should not, in my opinion, be considered as having authorized what would, if done otherwise, have produced unjust discrimination. I think that we are justified in inferring that, in respect of the classes of merchandise to which these tariffs relate, the reductions did result in such discrimination, and that the rates from Vancouver eastward, upon similar traffic carried under similar circumstances, should be proportionately reduced.

The remaining point arises out of the facts that, in order to meet water competition on the Pacific coast, the railway company carries goods from eastern points to the Pacific coast at lower rates than to interior western points, and that the same practice prevails with reference to the rates from Winnipeg westward; and that, at many interior points, the rates from Winnipeg are less than the combined rates from Winnipeg to points of the coast, and from the latter points to the interior ones. The low rates to the coast are made necessary in order to enable the railway companies to obtain traffic in competition with ocean carriers. Such a practice is distinctly authorized by the Railway Act, and, unless the higher rates from eastern points to interior western points are, in themselves, unjust or unreasonable, this practice does not involve unjust discrimination. Necessarily the situation must have a modifying effect upon the rates to the interior points, which must vary with the distances from the Pacific ports. Prima facie the railway company should be entitled to charge reasonable rates from the Pacific ports eastward, and it should not be obliged to charge and would not even be warranted in charging, excessive rates to the interior points for the purpose of equalizing the position of the Pacific coast points. It does not appear to me that the mere fact that the westbound rates from Winnipeg or any other point to such interior western point are less than the rates which would be made up by a combination of the rates from such eastern points to Pacific points, and from the latter to the interior point, in itself constitutes unjust discrimination or undue preference. The railway company is allowed to meet competition at coast points, and I think it should equally be allowed to meet the effect of that competition upon interior points to a reasonable extent.

I am of opinion that the complaint should be dismissed, except in so far as relates to the class of traffic for which reduced rates were given under the Act relating to the Crowsnest line.'

Judgment in dissent, Mr. Commissioner Mills.

'I regret my inability to concur in the judgment of the Chief Commissioner in this case.

'I do not attach so much importance as the Chief Commissioner seems to attach to certain portions of the evidence—evidence into which the element of interest enters largely and regarding the value of which there is clear ground for difference of opinion; and I differ wholly from the opinion expressed as to the bearing of what is called the "constructive mileage" evidence; it has, I would venture to say, a manifestly direct bearing, and is in my opinion the best possible evidence as to the relative cost of the operation and maintenance of the two sections of the railway, the mountain section and the prairie section—because it is an expression of the deliberate opinion of the railway company, with the facts in its possession, at a time when there was no dispute and no issue to be settled; according to which opinion, each mile of the road between Yale and Revelstoke cost as much to operate and maintain as one and one-half miles of the prairie section. The rates were adjusted on this basis and no complaint was made by any section of the country.

'At a later date, the rates on the prairie section were reduced, without any corresponding reduction on the British Columbia (including the mountain) section; the balance was thus disturbed, and has remained so, although no evidence was given at the hearing or since to prove that the traffic on the said British Columbia section had then become or now is *relatively* any less than it was when the "constructive mileage" basis was established; and for this reason, as I understand it, the chief

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traffic officer of the Board used the "constructive mileage" of the company in one of his calculations.

'Further, the chief traffic officer, whose technical knowledge and experience specially fit him for dealing with such questions, investigated the points at issue, in all their bearings, at great length, and with the utmost care; he read and weighed the evidence pro and con; he considered the objections urged by the representatives of the railway company against the statements and recommendations made in his report of the 17th December, 1906, and he came to the conclusion that there has been and is discrimination against the Pacific coast cities as compared with Winnipeg.

'Therefore, without stating my reasons at greater length or further enumerating the portions of the Chief Commissioner's argument and conclusions from which I have to dissent, I would say that I approve of the recommendations of the chief traffic officer, as follows:—

(a) That the rates between Vancouver and Calgary should be reduced so as to preserve the same relative proportion between these and those between Winnipeg and Calgary as existed before the latter were reduced some years ago; in other words, that the prairie rates should apply between main line points in British Columbia, counting one mile between Yale and Revelstoke as equivalent to one and a half prairie miles, and one mile between Revelstoke and Canmore as equivalent to two prairie miles—equalizing the Vancouver eastbound and the Winnipeg westbound rates at a point 67 miles west of Calgary.

'(b) That the rates between Revelstoke and Macleod *via* Nelson should be similarly reduced, counting each mile between Yale and Crowsnest as one and a half prairie miles instead of two miles, as at present.

'(c) That from Vancouver to Calgary and Macleod and intermediate points commodity rates should be given on the same articles as have commodity rates from Winnipeg under the so-called "Crowsnest Pass agreement;" these rates to be calculated in the same manner as the class rates, as in sections (a) and (b) equalizing the Crowsnest reduced rates from Vancouver westbound and the rates from Winnipeg westbound at Wardner, 146 miles west of Macleod.'

Application Canadian Pacific Railway Company for permission to make refund to Messrs. George Moore & Co., of Waterloo, from the local freight charges to Galt, on eggs subsequently reshipped.

The eggs in question were shipped to Galt from the Canadian Pacific Railway Company's station at Eden, Straffordville and Tilsonburg, in less than carload lots, aggregating 51,820 pounds, on which the company's local rates to Galt were paid. There was in effect at the time a special tariff which provided that eggs shipped from the company's own stations in lots of not less than 500 pounds, to certain specified cold storage points, would, on reshipment, be entitled to an allowance of one-third from the inward charges to the cold storage point. In the specified cold storage points of the Canadian Pacific Railway Company's original tariff, Galt and Waterloo, Ont., were not included, but were omitted, as the representative of the company says, by mistake, and as a result Messrs. Moore & Co. did not derive the benefits of the stop-over arrangements that were granted the points shown in the tariff, the effect of which was, as alleged, to unjustly discriminate against Moore & Co.

Judgment, Chief Commissioner Killam, November 13, 1907, concurred in by the Deputy Chief Commissioner Bernier, was to the effect that the rates paid were those provided for by the existing tariff, and that the fact that the tariffs for other points were discriminatory as against Galt and Waterloo, would not have been proper ground for disallowing some of the tariffs, or requiring a change, if an application had been made therefore, and it did not give the Board jurisdiction to direct or authorize the rebate for which authority is asked, or to interfere in the matter.

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Judgment in dissent, Mr. Commissioner Mills.

'I regret my inability to concur in the decision arrived at in this case. It seems to me to grow out of such a strict and an inflexible interpretation of one section of the Railway Act as results in defeating or nullifying other sections of the said Act—construing section 328 so as to defeat the manifest intention of the equality sections, 315-320 inclusive, which were inserted in the Act to prevent unfair or unjust discrimination.

'The case is one admittedly of unjust discrimination, amounting to \$40.61 against George Moore & Co., of Waterloo, Ont., due to mistake in the tariff. The company admits the mistake and offers to refund the amount. Our chief traffic officer advises that the refund be made, provided two things are done to remove the possibility of discrimination against any other shipper of the same commodity; and the decision of the Commission is that the refund must not be made—that the rate in the published tariff, right or wrong, even though it has admittedly resulted in discrimination, must be charged, no matter who suffers loss, until a new tariff is printed and published. This may be according to the letter of the law; but it is, I think, at variance with the principles of justice; so I have to dissent.'

Held further (Chief Commissioner and Deputy Chief Commissioner), following previous rulings (see complaint Dominion Concrete Company, Ltd., and the E. B. Eddy Company's complaint):

'That the Board is not a court for all purposes, but only for the purpose set out in the Act. Discrimination is forbidden by the Act. The Board, under its general jurisdiction, has power to prohibit the continuance of discrimination when found to exist, and it has the power to disallow tariffs which, in that or other respects, are contrary to the provisions of the statute; but I cannot find anything in the Act which confers upon the Board jurisdiction to direct or authorize rebates on the ground set up in this application.'

Naylor and the Windsor, Essex and Lake Shore Rapid Railway Co.

This was the complaint by C. E. Naylor, of the town of Essex, alleging that the Windsor, Essex and Lake Shore Rapid Railway Company had constructed its line of railway and high tension wire along Talbot street, in the said town of Essex, in such a way that electrical current had escaped from the said wire to the wires of the complainant and thence to private premises, where it had caused damage; and applied for an order directing that steps be taken to remove the danger.

The Windsor, Essex and Lake Shore Rapid Railway Company was incorporated by Act of the legislature of the province of Ontario, passed in the year 1901, c. 92. By that Act the company was authorized to construct a railway, to be operated by electricity, from a point in or near the city of Windsor, through the towns of Essex and Leamington, to a point in or near Wheatley. The Act provided that the railway, or any part thereof, might be carried along and upon such public highways as might be authorized by the by-laws of the respective corporations having jurisdiction over the same.

By Act of the Parliament of Canada, 1906, c. 184, the railway works of the company were declared to be for the general advantage of Canada, and provided that the Railway Act, 1903, and amendments thereto should thereafter apply to the company and the said works to the exclusion of the Electric Railway Act of Ontario or any provision of the Company's Act of incorporation inconsistent therewith; but that nothing therein should affect any action theretofore taken pursuant to powers in such Acts contained.

The Dominion Act also provided that the company should not construct or operate its line of railway along any highway or other public place without first obtaining the consent (unless such consent had already been obtained), expressed by

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by-law of the municipality having jurisdiction over such highway or other public place, and upon terms to be agreed on with such municipalities.

On the 7th of April, 1902, the municipal council of the town of Essex passed a by-law granting to the company, subject to the terms and conditions contained in the by-law, the right to construct its line through the town and along the highway known as Talbot street. The by-law provided that the poles and wires of the railway company should be placed so as not to interfere with the poles or wires of any other person or company then existing. The by-laws also provided that the franchises thereby granted should be subject to all other franchises, rights or privileges in respect of Talbot street, within the town, theretofore enjoyed by any person or persons, company or companies.

On the 19th February, 1900, an agreement in writing was made between the town of Essex and the complainant, under which the complainant agreed to furnish certain lamps for street lighting in the town, and to keep the same burning each night. At the time of the passing of the by-law, the complainant had upon and along Talbot street, a number of poles and wires used for the purpose of furnishing power for the lighting of the streets and the lighting of private premises. The railway company constructed a line of railway along Talbot street and put upon the street poles and wires for the purpose of conveying electrical power for the operation of the railway. In doing this, it interfered to some extent with the complainant's poles and wires, and so that there was risk of the escape of the current from their wires to those of complainant. The evidence showed that electrical current had escaped from the company's power wire to complainant's wires and thence to private premises, where it had caused damage.

Hearing at Chatham, October 29 and November 1, 1907.

Judgment, Chief Commissioner Killam, December 24, 1907

' If the railway and the power line were constructed before the passing of the Act declaring the company's railway works to be for the general advantage of Canada, it appears to me that no order of the Board was necessary to authorize their subsequent maintenance and use. If none of these things were done before the passing of the Act, I think that the railway company required the leave of the Board, under sections 235 and 237 of the Railway Act, for the purpose. If part only of the work was done before the Act and a part afterward, difficult questions might arise as to the necessity for such leave, under which the actual facts might be material; and I, therefore, refrain from expressing any opinion upon such questions.

For the present I assume that the work, or sufficient of it, was done before the passing of the Dominion Act to render the maintenance and operation of the railway upon and along the street lawful. If the company were coming for leave to construct and operate the railway upon the street, the Board would clearly, in my opinion, have the power to impose upon the company such conditions as it might see fit for the purpose of protecting existing telegraph, telephone or electric lighting lines, and for the purpose of protecting the public from the danger necessarily arising from the escape from the railway company's wires of heavy electrical currents to and over any other lines; and it appears to me equally clear that, if the railway and its power lines were lawfully upon the street when the Dominion Act was passed, the Board still has the power, under section 238 of the Railway Act, to impose similar conditions upon the railway company or to make orders requiring the railway company alone, or other parties interested or affected or the company and any such other party or parties jointly, to execute such works or take such measures as, under the circumstances, appear to the Board best adapted to remove or diminish the danger.

Both by the terms of the Railway Act and by those of the Act declaring its works to be for the general advantage of Canada, the company became a railway company subject to the terms of the provisions of the Railway Act so far as applicable. The poles and wires erected by the company formed a necessary and integral part of th

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railway works. In exercising the jurisdiction conferred upon it by section 238, the Board must take into consideration the nature of the works and of the protective measures which works that nature render necessary, just as in the case of a railway operated by the power of steam.

The case is, therefore, one for the exercise of the Board's discretion as to the measures to be taken and the party or parties who are to do the work or bear the expense. The Board's electrical engineer has visited the locality and reported upon the measures which he deems necessary for the protection of the public and of the owners of other lines. The by-law of the town authorizing the construction of the railway upon and along the street required that the railway company's poles and wires should be so placed as not to interfere with any poles or wires of any other person or company existing at the time of the passing of the by-law. Whether a formal by-law of the town council was necessary to enable Naylor lawfully to place and maintain his lines upon the public street, we must presume that they were there with the knowledge and the tacit consent of the municipal authorities.

Under these circumstances, it appears to me that the railway company should adopt the measures and bear the expense necessary to the protection of the existing lines and of the public.

At the hearing Naylor's counsel expressed his client's willingness, if the railway company would construct the necessary lines for the purpose of enabling him to transmit power across the street where this was necessary for connections on the other side, and would allow the use of its poles on the opposite side of the street, to do the work and bear the expense of running his wires along these poles.

This appears to me to be a reasonable solution of the difficulty, and an order should, in my opinion, go accordingly; the order to be drawn under the advice of the electrical engineer and to direct the railway company to provide and place, in accordance with the recommendations of the electrical engineer, the wires necessary for this purpose, and to allow Naylor the use of its poles for carrying his wires—the same to be placed to the satisfaction of the Board's electrical engineer.

The railway company should pay Naylor the costs incurred by him in respect of the proceedings before the Board in this matter, and the order should so provide.

It does not appear to be necessary to enter into consideration of the objections to the by-law or to Naylor's authority for the use of the street, or to any of the other questions of law raised by counsel. I would put the case wholly as one for the exercise of the Board's discretion under the express terms of the Railway Act, and impose the expense upon the railway company in view of the terms of the by-law which was necessary to enable it to use the street.'

Order, dated January 15, 1908, issued accordingly.

Interswitching.

Several applications and complaints from different places were made to the Board respecting what are known as switching charges, and related—

(a) To the amount of the charges;

(b) To the practice of adding to the tariff rates of the company carrying to a particular place the switching charge of another company to which the traffic is transferred for carriage to and delivery at another point in or near the same place; and

(c) To the practice of railway companies, in cases where the traffic originates at a place common to the two companies, or what are usually designated as competitive points, while adding the charge when the point of origin is non-competitive.

Hearings at Winnipeg, Lindsay and Toronto.

Judgment, Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier and Mr. Commissioner Mills, December 26, 1907.

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‘..... In some late cases before the Interstate Commerce Commission in the United States, Nos. 1073, 1074, Laing-Harris Coal and Grain Company v. Atchison, Topeka and Santa Fe Railway Company, 12 I.C.C. Rep. 556, the complainants claimed that the tariff rates of the railway company, which read to Kansas City, included delivery at any points within the corporate limits of Kansas City without regard to whether this was or was not upon the lines of that company. The Commission said in its report: “This claim and argument are entirely at variance with customs of many years’ standing and contemplate imposing upon the carrier a duty which it would be utterly unable to perform. The Act to regulate commerce in specific terms provides that one carrier shall not be obliged to give the use of its tracks and terminals to another carrier engaged in like business. The defendant company could not deliver cars to any industry except upon its own rails without the consent and co-operation of the carrier or carriers upon whose rails the industry sought to be reached is located or via whose rails it is reached. A carrier may not reasonably be required to accept and deliver free of charge traffic which is moved by its competitor.” And again: “In the absence of tariff specifications to the contrary, the transportation shown in a carrier’s tariff to a given point are and always have been understood to include delivery to industries or unloading places located upon its own rails, and if consignee or owner of shipment orders it transported by another carrier to another place, he must expect to pay the lawful charge for that service.”

‘In those cases the shipments were originally billed simply to Kansas City, and after arrival, direction was given to transfer to destinations not on the line of the originating company. But, the same principles were applied in another set of cases, No. 1078, Leonard v. Chicago, Milwaukee and St. Paul Railway Company and other cases, 12 I.C.C. Rep. 573, where it appeared that at one time the originating company absorbed the switching charge, later discontinued the practice, and subsequently resumed it; and the complainants claimed that the adoption of the practice and subsequent resumption after discontinuance showed the unreasonableness of requiring shippers to pay the switching charge; but the Commission refused to disallow the charge. There the Commission said: “The practice at that time of absorbing switching charges without a specific tariff provision therefor was very general among the carriers.” If offence against the law was involved in such practice it would rest in the absorption rather than in requiring shippers to pay, because the switching charge being the charge of another carrier, should appear in its tariff. No switching or other terminal charges should be absorbed except under a plain and specific tariff provision therefor.’

‘There is not in our legislation any express provision similar to that in the United States Commerce Act, that one carrier shall not be obliged to give the use of its tracks and terminals to another carrier engaged in like business. But, in the absence of any such enactment, this must necessarily be the law. Express legislative authority is necessary to enable one railway company to use the lands or premises of another company without its consent. Such authority is embodied in section 176 of the Railway Act, provided the approval of this Board is first obtained; and the Board is empowered to fix the compensation to be paid therefor. In the London case, the Board held that the transfer by one railway company to another at a junction point of traffic to be delivered on the second company’s line near the junction point did not constitute a use by the first company of the second company’s tracks or terminals; but that the second company was to be compensated by a fair rate for the receipt, carriage and delivery of the particular traffic so transferred, including the use of its premises for the purpose. The rule was laid down that the ‘division between railway companies of the joint rates for traffic thus interchanged should be made upon the principle of giving reasonable compensation for the service and facilities furnished by the respective companies in respect of the particular traffic thus

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interchanged. The order of the Board required the interchange of traffic between the lines of the Canadian Pacific Railway Company and the Grand Trunk Railway Company at the junction point near London to and from the tracks and terminals of the Grand Trunk Railway Company in and near London, and provided that the rates to be charged for such traffic should be those provided for by any joint tariffs in existence between the railway companies interested, and, in the event of there being none, the rates charged by the Grand Trunk Railway Co. between the same points, and, in the absence of either, the rates charged by the Canadian Pacific Railway Company between the same points, and fixed the amounts to be charged by the Grand Trunk Railway Company. In that case the Canadian Pacific Railway Company consented, and offered to absorb the Grand Trunk Railway Company's charges. The order was affirmed on appeal to the Supreme Court of Canada.

I think the principles laid down by the Interstate Commerce Commission are correct—that a railway company's tariff to and from particular places should, in the absence of indication to the contrary, be read as covering only traffic originating at and for delivery upon its own tracks and connecting sidings within its own terminals, and not as including traffic originating or for delivery at or near the same places upon the lines of another carrier; that a reasonable additional rate should be payable for what is ordinarily designated switching, namely, the service for short carriage and receipt or delivery as the case may be; and that the company carrying for the long distance should not be obliged to absorb the whole of this charge. I think, however, that the Board may require the two companies to treat such traffic as joint traffic and to establish therefor joint tariffs under which the joint rate may be less than the sum of the two rates, and each or one of the companies required to accept less than its full rates. In such cases the principal carrier does not usually perform the full service which it performs in ordinary cases of receipt, carriage and delivery upon and over its own lines only. There may be cases in which as much service is performed, but usually the service is less.

The Board's chief traffic officer has made a report upon this subject which contains valuable suggestions and recommendations both as to fixing the bases of switching charges and as to divisions of the joint rates between the carriers, and also as to some other matters.

In the case recently heard by the Board at Toronto it appeared that it had long been the practice of the two companies operating there (the Grand Trunk Railway Company and the Canadian Pacific Railway Company) to absorb these charges in respect of traffic upon their respective lines to and from Toronto, received or delivered on the lines of the other, and that, without any change of tariffs, they had recently abandoned this practice and adopted the principle of adding the switching charges to the regular tariff rates. The origin of the practice was explained. It appeared that, when the Canadian Pacific Railway was constructed into Toronto, it had to receive and deliver its traffic wholly or mainly upon the tracks of the Grand Trunk Railway Company and was practically compelled to bear the charges therefor, that, as the Canadian Pacific Railway Company established and enlarged its terminals and acquired siding to industries and places of business, the Grand Trunk Railway Company followed the same practice in reference to traffic received and delivered on the tracks of the Canadian Pacific Railway Company. It does not appear to me that the railway companies are bound to make an exception in the case of Toronto or that, because of their having thus mutually absorbed these charges for a considerable length of time, they must necessarily continue to do so forever. The whole question is one of reasonableness; and while the continuance of the practice affords evidence of its reasonableness, it is not conclusive. I do not feel that we can properly require the companies to continue it. I think, too, that each company, without changing its tariffs, could add the charge of the connecting carrier. The switching tariffs should

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certainly be filed with the Board, but, in the absence of filing, the rates set out in the standard tariffs would prevail; and it is not claimed that charges were made at higher rates. All claims made for refunds should, therefore, in my opinion, be disallowed. The exact amounts which should be paid and the exact divisions for the aggregates of the two sets of charges which are to be allowed hereafter, were not considered and discussed at Toronto. Our attention was confined to the main questions of principle. Naturally the scales suggested by the chief traffic officer cannot well be applied generally without consideration of local circumstances.

While, in my opinion, the railway companies by which the principal carriage is performed should not be obliged to bear the whole of these switching charges, it does not follow that they should be debarred from absorbing the whole of such charges provided that this does not involve unjust discrimination or preference. The Railway Act recognizes that what might otherwise constitute unjust discrimination or preference may be justified as the effect of competition. If a railway company receiving or delivering traffic upon its own lines is obliged to charge its full tariff rates without absorbing the switching charges of the line from which it receives or through which it delivers the traffic, it will often be deprived of the opportunity to get traffic from or to places common to it and other railway companies, and such places would often lose some of the competitive conditions. While this may result in some disadvantage to non-competitive points, the existence or possibility of such disadvantage cannot, I think, be considered as constituting the railway companies to absorb the whole of such charges in all cases, or prohibit them from absorbing them where this is induced by real competition.'

Brantford and Hamilton Power Wire Crossing over the Railway of the Grand Trunk Railway Company of Canada at Cainsville, in the Province of Ontario.

This was an application by the Brantford and Hamilton Electric Railway Company, under section 246 of the Railway Act, for leave to carry a wire for the transmission of electric power of high voltage across the Grand Trunk Railway Company's tracks at Cainsville. The applicant company had previously obtained leave to carry its railway under the track of the Grand Trunk at this point. The Grand Trunk Railway Company asked that the wire also be carried under its railway. The electrical engineer of the Board reported that this would not be safe, and that the crossing should be over the railway, and the telegraph and other wires along the railway.

The Board proposed to make a short temporary order, giving the right of crossing, specifying certain precautions, and leaving it subject to further order. A draft of such an order was submitted to the railway companies. It was approved by the applicant company, but objected to by the Grand Trunk Railway Company, which submitted a form of order embodying a number of conditions to which the applicant company objected. Among others, there was a provision for indemnifying the Grand Trunk Railway Company against damage.

Judgment, Chief Commissioner Killam, February 17, 1908:—

'The question of requiring the condition of indemnity was very carefully considered by the Board in some applications of the Kaministiquia Power Co., and it was there decided by the Board that, when the power wire is sought to be carried over the railway company's own property without other compensation to the railway company, it is reasonable to make the power company responsible for any injury resulting therefrom, except such as may be due to default or neglect on the part of the railway company's servants or agents; but that, where the wires are, under proper authority, being carried along a highway over which the railway company has merely a right of crossing, such responsibility should not be imposed upon the power company, which, in such case, should be left to its common law liability.

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The order in that case was settled after contest between the power company and the railway company, and the form seems to be a reasonable one for ordinary use, and should, I think, be adapted to the present case.'

Order issued accordingly, March 24, 1908.

Re Private Siding.

The facts, as related to the Board, were that 'S,' a private individual, had a siding partially on his own land and partially on the land of an adjoining neighbour 'C,' connecting with the Canadian Northern Railway Company's line of railway. As the siding was not, at the time of the application to the Board, and had not been for some time previous, used by 'S,' 'C' applied to the company for permission to load a few cars of wood, thereby saving quite a haul and the necessity of crossing the company's track. The railway company refused its consent, and the Board was asked to direct the company to grant the same.

The Board caused inquiry to be made, and found that the siding referred to was a private one, put in under an agreement between the railway company and 'S'; that there was no record of any order either of the Board or of the Railway Committee of the Privy Council, authorizing the construction of the siding as a branch of the railway company.

Held, that the Board had no power to compel the railway company to use the spur for 'C's' accommodation; that if the siding had been placed upon 'C's' land without his authority it would be a matter in respect of which the Board had no jurisdiction, but rather a matter of civil right which must be dealt with in the ordinary courts, in case 'C' desired to assert a claim to the land as against the railway company or against 'S.'

January 30, 1908.

Re Highway Signboards.

Under the Railway Act, signboards at every railway crossed at rail level by any railway are required to be erected and maintained at each crossing, with the words 'railway crossing' painted on each side thereof in letters at least six inches in length.

The Board was asked if any arrangements had been made by it with respect to the placing of these signboards; whether or not a signboard could be placed in the middle of the highway leading to the crossing, or on the side of the road; and whether they could be so placed that there would be a danger to vehicles running into them.

Held, that in the absence of complaints that highway signboards are so placed as to obstruct highway traffic, it was not necessary for the Board to adopt any regulations in respect thereto; that, in the opinion of the Board, a railway company is not justified in placing highway signboards in such positions as to obstruct highway traffic; and that the Board would be glad to be informed of any cases in which such signboards are so placed.

April, 1907.

Re Complaint of Monypenny Brothers & Co.

Complainants alleged that they had occasion from time to time to make a claim against the Grand Trunk Railway Company for shortages in shipments made to them occurring through pilferage while in transit. The shipments referred to were consigned to complainants at Toronto by the manufacturers in the old country, and were shipped via the English railroads, the steamship line and the Grand Trunk Railway. The contention was that the Grand Trunk Railway Company was responsible to them, but that the company refused to admit liability, alleging that the goods were delivered as received from the steamship company.

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Held, that the Board has no jurisdiction to compel railway companies to pay claims for lost or damaged goods; that the remedy given by the statute is by action in a court of competent jurisdiction; and that the Board did not consider that it could properly advise upon the question of the railway company's liability.

January, 1908.

Re Application of the Town of Almonte for Protection of Crossings by Canadian Pacific Railway over certain Streets in the said Town.

This was an application by the corporation of the town of Almonte for an order directing the Canadian Pacific Railway Company to provide suitable and proper protection at the railway crossings in the said town.

After hearing, the judgment of the Board—Chief Commissioner Killam and Deputy Chief Commissioner Bernier, Mr. Commissioner Mills dissenting—was that the railway company be required to place and maintain an electric bell at the Main street crossing and to construct a subway to carry Little Bridge street under the tracks of the railway company, according to plans to be submitted to and approved by the Board's engineer; and to erect and maintain gates at the Bridge street crossing, and keep a watchman or watchmen there at all hours by day and by night, the town to pay one-half the wages of such watchman or watchmen. The order also to provide that by consent of the council of the town, the gates might be closed at such hours of the night as the council prescribed. The order further to provide that if the town should consent by resolution within three months from the date of the order, the subway was to be placed at such point between Bridge and Little Bridge streets as the Board determined, and both the said streets diverted into and through the subway, and the level crossings at both streets closed. In every case the railway company to bear all compensation, except in respect of injury to the property of the town, which was to be borne by the town.

Judgment in dissent, Mr. Commissioner Mills.

At the rehearing of this application on March 26, 1907, it was stated by the mayor that the population of the town of Almonte is 1,200 less than it was about twenty years ago; and, assuming this statement to be correct, I cannot avoid the conclusion that the town has not contributed in any degree to the increase in danger at the railway crossings referred to in the application. This increase in the danger which has made protection at the said crossings now necessary, has, in my opinion, been caused to some extent by the raising of the railway tracks at Bridge street and Little Bridge street, but is chiefly, I might say almost wholly, due to the increase in through traffic on the railway, especially to through trains which run at a high rate of speed and pass Almonte without stopping. Therefore, I am unable to see the equity of requiring the town to pay anything towards the protection of crossings over streets which were in existence when the railway was constructed, and which have been made dangerous, not by increased population or increased traffic in the town, but by through traffic on the railway.

Hence, in view of the admitted facts, and the allegations of the mayor as to the decrease in the population of the town and the consequent decrease in vehicular and pedestrian traffic over the crossings referred to in the application, and his declaration as to the smallness of the total assessment of the town and the very high fixed rate of taxation, my judgment is that an order should go directing the railway company, at its own expense, to put in and maintain an electric bell at Main street, as per the report of Engineer Simmons; construct a subway on Little Bridge street, as per the report of Chief Engineer Mountain; and remove the building and shed which obstruct the view at Bridge street—the town agreeing to pay to the said company one-quarter of the actual cost of the subway on Little Bridge street.

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The Canadian Pacific Railway Company v. The Grand Trunk Railway Company (known as the London Interswitching Case, Reported in the First Annual Report of the Board, at p. 86.)

The Board granted leave to the Grand Trunk Railway Company to appeal from its order to the Supreme Court of Canada, and the following questions were submitted, with the approval of the Board:

1. Had the Board authority, under the Railway Act, 1903, and particularly under sections 53, 71 and 214, to make the order in question under the circumstances shown in the record in this case?

2. Are sections 266 and 267 of the Railway Act, 1903, applicable under the circumstances of this case where one and the same through rate is charged to and from all points within the district lying in and about the city of London to which the said order applies?

3. Does the order appealed from involve the obtaining by the Canadian Pacific Railway Company of the use of the tracks, station or station grounds of the Grand Trunk Railway Company at London, for which the Grand Trunk Railway Company should obtain compensation under the Railway Act, 1903, and particularly under section 137?

4. Was the Board 'bound, as a matter of law,' to take into consideration, in estimating the remuneration or compensation to be allowed to the Grand Trunk Railway Company in consequence of or for what was required of that company by the said order:—

(a) The magnitude of the business of the Grand Trunk Railway Company at London as compared with that of the Canadian Pacific Railway Company at that point.

(b) The comparative advantage which each of the said two companies can offer to the other there.

(c) A comparison of the loss which one company is likely to sustain with the gain likely to accrue to the other company from the giving of these facilities which the law required.

(d) The amount which may have been expended by the Grand Trunk Railway Company in the acquisition of their terminal facilities at London or the value of their investments therein, otherwise than as evidence of the fair value of the service to be rendered and of the use of the facilities to be afforded under the said order.

(e) The amount of any further investment of capital which the Grand Trunk Railway Company may be obliged to make in order to carry out the terms of the said order, otherwise than as excepted by the last preceding paragraph.

The order was affirmed.

The judgment of the court delivered by Davies, J.: Since this appeal was taken from the decision of the Railway Commissioners, parliament has enacted an amendment to the Railway Act, placing beyond doubt the power of the Commissioners to make such an order as the one now appealed from.

Our decision, therefore, as to what was the true meaning of the original Act is of no public importance, and we do not see any good purpose in stating reasons for the conclusion we have reached that the appeal must fail.

We should answer the first and second questions in the affirmative and all others in the negative.

Ruling re Application for Opinion in Matter not Pending before Board.

An ice company owned a switch from the line of railway of a railway company to their icehouse, which they kept entirely in repair and owned themselves.

The railway company delivered cars to their icehouse over this switch. The Board was asked on behalf of the owners of the industry who would be responsible for

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accidents that might occur in the operation of the switch, and whether the railway company would have the privilege of operating the switch against the wishes of the ice company.

Held, Chief Commissioner Killam, that, while the Board is always willing to give information as to the contents of statutes to which parties may not have the means of convenient access, it considered that it should not undertake to give legal opinions as the parties' right under circumstances stated to it, except where it became necessary to do so in dealing with applications and complaints that came before it in due course for adjudication; that, in the case submitted, the rights and obligations of the parties might be affected by the circumstances not known to the Board, and the Board felt, therefore, that it could not properly undertake to advise in the matter.

Re Brantford and Hamilton Railway re Carriage of Troops on the Brantford and Hamilton Railway.

The Board was advised by residents in Hamilton that it was proposed to transport regiments of troops from Hamilton to Ancaster, stating that an inspection of the Brantford and Hamilton Railway would be necessary before that time, and asked the Board to cause an inspection to be made.

And chief engineer of the Board inspected this company's railway from Hamilton to Ancaster, a distance of six and one-half miles, and recommended that the request of the citizens to haul troops over it for the date asked be granted upon certain conditions.

Held, Chief Commissioner Killam, that there was no authority for the making of an order such as that recommended by the chief engineer. By section 261 of the Railway Act, no railway, or any portion thereof, is to be opened for the carriage of traffic other than for the purposes of the construction of the railway until leave therefor has been obtained from the Board, as thereafter provided. Two systems of opening are provided for: (1) for freight traffic only; (2) for traffic generally, after a certain application and affidavit has been furnished and an engineer has reported that, in his opinion, the opening of the railway, or portion thereof, proposed to be open for the carriage of traffic, will be reasonably free from danger to the public using the same. The necessary application and affidavit have not been furnished and the engineer has not reported as required by the Act. Upon these grounds, the Board refused to authorize the limited use of the railway as asked for.

Ocean Bills of Lading.

A railway company submitted to the Board, for temporary approval, forms of bills of lading covering traffic between ports in Europe and Canada. Some of these were intended for ocean traffic only, others appeared to relate to traffic partly by ocean and partly by rail in or through Canada, and while the terms of the bills of lading appearing to be intended to cover the railway service as well as the ocean transportation, they were evidently drawn with special reference to the ocean transportation, and the effect of their application to the railway service was not clear.

Held, Chief Commissioner Killam, that in respect of the bills of lading intended for ocean traffic only, the Board had no jurisdiction; that, in regard to the others, which appeared to be drawn for traffic to be carried partly by ocean and partly by rail, while the terms of the bills of lading appeared to be intended to cover both the railway service and the ocean transportation, they were evidently drawn with reference mainly to the ocean carriage; and the application, in many parts, to the railway service difficult, and their probable effect far from clear; and that in other respects the terms of the bills appeared to the Board not to be reasonable or such as the Board should approve for transportation upon railways; that, by the terms of the

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bills, it appeared to be intended that the carrier should be relieved from liability for many intentional wrongful acts and many acts of negligence of employees; that the provision requiring consignees to take delivery of goods within twenty-four hours after arrival, although they may have had no opportunity to learn of the arrival, did not appear to the Board to be reasonable, and that the provision giving a lien on goods not only for the freight and charges thereon, but also for all previously unsatisfied freight and charges due by consignees, appeared to be unreasonable and also to go beyond what is authorized by section 345 of the Railway Act; and that in these and other respects the forms of the bills appeared to the Board to be so objectionable that they should not be approved.

Re Application of the Vancouver, Westminster and Yukon Railway Company, under sections 221 and 224 of the Railway Act, for authority to construct Branches or Spurs in the City of Vancouver.

In this case the Board decided the principle that it could not authorize the construction of a branch line from a point on a line of railway not yet existing.

The question also arose, where the proposed branch line or spur involved the crossing of a navigable water, whether the Board could authorize such construction before the approval by the Governor in Council of the site and plans of the work as required under section 233 of the Railway Act. This section provides that when the company is desirous of constructing any work over a navigable water, a plan and description of the proposed site for such work and a general plan of the work to be constructed must have the approval of the Governor in Council; and upon such approval, application made to the Board for an order authorizing the construction of the work.

Held, here, that while there was no doubt that False creek and the arm in question, as navigable waters, required the approval by the Governor in Council of the site and plans of the work before it could be constructed, such approval was not a necessary condition precedent to the granting of the application by the Board.

Chief Commissioner Killam: 'The converse is, to my mind, the case; the authority to build a branch is a condition precedent to the application for approval of the site and plans of so much as crosses navigable water. In my opinion, the granting of authority by the Board to build a branch does not, of itself, relieve a railway company from liability to comply with the other provisions of the Railway Act, it does not, of itself, authorize the grading of the line across a highway or another railway without specific leave therefor from the Board, though it is convenient in many cases to determine upon the one application, or at the same time, whether the last mentioned leave should be given, as in many cases circumstances affecting applications for such leave might well have to be considered in determining whether the branch should be allowed, and the parties interested in the railway or highway crossings might well be heard upon the original application. In many cases, it may well appear that the objection to such modes of crossing highways or railways as are found practicable, are such that no authority should be given for the construction of the branch, and, in the present case, the Board is entitled to take into consideration the extent to which any of these lines would probably obstruct navigation, before determining the application.'

April 10, 1907.

Re Montreal Produce Merchants' Association's Complaint.

This was a complaint against the advance in the winter export rate on butter and cheese from Montreal to Portland and West St. John, as proposed by the Grand Trunk and the Canadian Pacific Railway Companies, alleging that for two or three

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winters prior to the lodging of the complaint the rate on these commodities had been 16 cents per 100 lbs., and that it was now proposed to increase this rate to 20 cents per 100 lbs., or an advance of 25 per cent. The complainants asked for an order restoring the original rates.

At the hearing it was alleged on behalf of the complainants that the fact that the lower rate had been maintained for a number of years was evidence that such rate was a reasonable and profitable one, and that, therefore, the new rate was unreasonably high.

Judgment, Chief Commissioner Killam, concurred in by Deputy Chief Commissioner Bernier.

The only ground upon which, under section 323 of the Railway Act, the Board is authorized to disallow a tariff, or a portion thereof, is that it considers it to be unjust or unreasonable, or that it is contrary to some of the provisions of the statute.

In this case, the statutory notice of increase was given, and the tariff does not appear to be in any way contrary to any of the provisions of the Railway Act. The Board has no power to compel railway companies to give longer notice than that provided for by the statute.

While the previous existence of a particular rate affords evidence of its reasonableness, it is not conclusive evidence, but more or less cogent according to circumstances. In the present case, having reference to the nature of the service, the lowness of the rate per mile, and the opinion of the chief traffic officer of the Board, 'that, for the season of the year and the services performed, the rate is a reasonable one,' I do not think that the Board can properly find that the rate complained of is unjust or unreasonable. The board has no power to compel a railway company to reduce a rate which it does not consider unjust or unreasonable, merely for the purpose of encouraging traffic or of preserving the vested interests of dealers in a commodity, or others interested in its transportation.

Judgment in dissent, Mr. Commissioner Mills.

First, as to the notice given by the Grand Trunk Railway Company and Canadian Pacific Railway Company, of their intention to raise their rates 25 per cent—from 16 cents to 20 cents per 100 lbs.—on winter shipments of butter and cheese from Montreal to Portland, Me., and West St. John, N.B. Notice was given on the 1st November and the increase was made on the 1st December—30 days afterwards.

Notice of 30 days, under ordinary circumstances, would be quite sufficient. In some cases it might perhaps be more than could reasonably be demanded; but in this case, while sufficient in itself, it was not given at the right time; it was long enough, but not soon enough. It was withheld, or not given, till the greater part of the season's make of cheese had been shipped and the Montreal exporters had bought and stored most of what they required for winter shipment. Therefore, I think the complaint of the Montreal Produce Merchants' Association is well founded and should be favourably considered by the railway companies.

Second, as to the cartage in Montreal. I certainly think that the exporter or other shipper should be allowed to do his own carting, if he so desires. If the rates charged by the railway cartage companies are as low as those charged by other carters, shippers will undoubtedly patronize them in preference to private carters. If they are higher, why should not shippers be allowed to employ private carters or use their own teams to do the work? I have heard no satisfactory answer to this question, and I cannot think of any.

Third, as to the increase from 16 cents to 20 cents per 100 lbs. in the rate on winter shipments of butter and cheese from Montreal to Portland, Me., and West St. John, N.B.

The chief traffic officer (in his report, page 3) says that 'eliminating the rates of previous seasons and the revenue already earned on the bulk of the traffic.....'

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the rate (that is, the present 20-cent rate) is a reasonable one,' but this elimination assumes a condition of things which has not existed and does not now exist, and helps us only to a theoretical conclusion as to what, under non-existent conditions, would be a reasonable rate for the service rendered. On the same page, however, he proceeds to discuss the rate under the conditions which have existed and now exist. He says that if a lower rate had been maintained for a number of years, under practically the same conditions, 'the inference cannot be avoided that the lower rate must have been profitable, and, therefore, that the new rate is unreasonably high.' He shows that, with two slight exceptions, the rate was 16·07 cents from 1904 till the time of the increase on 1st December, 1906, and that prior to December, 1904, the rate varied from 14·47 cents to 18·22 cents, averaging 15·19. He calls attention to the fact that the rate of 15 cents per 100 lbs. on packing-house products between the same points is 25 per cent below the standard tariff, and that the 20-cent rate on butter and cheese is only 13 per cent under the said tariff, and concludes that, in view of all the facts and circumstances, the 20-cent rate is unreasonably high.

Therefore, I have not reached the same conclusions as my fellow Commissioners in this case. I approve of the recommendations of the chief traffic officer, 'that the companies be directed to reduce their rate from 20 cents to 18 cents per 100 lbs. on carload lots, and to give exporters the option of making their own arrangements for the cartage of their butter and cheese under the through rate and stop-over system;' and my judgment is to that effect.

April, 1907.

Re Wire Crossings. Conditions as to Indemnity.

Chief Commissioner Killam:

The question of requiring parties applying for leave to carry wires across railway tracks, to indemnify against injuries arising therefrom, is one that must be determined in each case according to the circumstances; but some general rules are applicable. It is a principle of law that a person storing or placing on his own land something which, in its nature, will be injurious to others if allowed to escape, is responsible to others for injuries caused through its being allowed to escape. This principle, however, is qualified by another, which is that, where a party is authorized by a statute to do anything, as the doing of it is, in such a case, lawful, he is not responsible for the injuries resulting therefrom to others. Unless, however, the statute specifically authorizes it, he is not empowered to enter upon or take the property of others without the consent of the owner. Where the statute gives this latter power, it usually provides for compensation to the owner of the property, and the courts consider that, unless the Act is clear, the presumption should be that the legislature does not intend to give the power without a right to compensation.

Companies authorized to construct railways and to operate them by steam, electricity or other power which involves danger to others, may lawfully do so without liability from any injury through the use of the necessary agencies for the purpose, unless the real cause of such injury is in the misfeasance or negligence of the company, its officers or employees. The same principle applies to companies authorized by the legislature to raise wire structures and transmit electricity thereby.

Railway companies are almost uniformly given the power to take private property without the consent of the owner; but provision is made for compensating such owner. Such provisions may differ in different statutes. Usually, such companies are not required to compensate parties, none of whose property is taken, for the discomfort, inconvenience or positive injury done them or their property by the operation of the railway. Where the company takes a portion only of one man's property, it is obliged to compensate him, not merely by paying the actual value of the piece taken, but also by paying for the injury done by separating it from the other portions of the pro-

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perty; and usually, under most statutes, the courts consider that the use to which the company is to put the property taken and the injury which will thereby be occasioned to the previous owner in respect of the property retained by him, should be taken into account. But where a company is given the power to construct and operate a railway, an electrical transmission line or other work, and is now given power by the legislature to carry it across lands of another party without his consent, it must take that consent with such conditions as the owner sees fit to annex.

By section 246 of the Railway Act, 'No lines or wires for telegraphs, telephones or the conveyance of light, heat, power or electricity shall be erected, placed or maintained across the railway without leave of the Board.'

This merely imposes a condition which must be fulfilled in order to make it lawful to place electrical transmission wires over railway tracks. If that condition were not imposed, such wires could be placed over railway tracks only by consent of the railway company or by authority of the proper legislature. It may be that, in the absence of this stipulation, the authority of a provincial legislature would be sufficient. This clause does not, it appears to me, authorize this Board to empower a company authorized by the legislature to construct and operate electrical transmission lines to carry such lines over the property of a railway company without the consent of that company, unless statutory power is given by the proper legislature to do this. A railway company stands in this respect in no different position from any other property owner, and railway companies, like property holders, own the land *usque ad coelum*. There is no height above the surface of the earth at which the property holder is not entitled to the protection of the law against the invasion of his right. In the case of the Kaministiquia Power Company, we held that, where the line was being carried along a highway by the authority of the legislature—either direct or through a municipality—as the railway company was not given the ownership of the soil of the highway, but merely a right of constructing and operating its railway over the highway, leave should be given to carry the wires over the railway with the imposition of such conditions only as seemed requisite for the protection of person or property, thus leaving the power company liable only for breaches of the conditions imposed or for the misfeasance or negligence of the company, its officers or employees.

If the legislature gives to an electrical transmission company power to carry its wires and transmit electricity by them over a private property, it should be considered by this Board as having a right to do so upon the conditions imposed by the statute giving the authority, and should be given leave for the purpose upon such additional conditions only as we consider necessary for the protection of person and property leaving it liable for injury only as in the case of highway crossings. But if no such statutory authority is given it, we cannot give that authority, and the electrical company must submit to any conditions which the railway company ask, our function in such case being only to see that such precautions are taken as to remove as far as possible the risk to the public or others than the railway company; and if among the conditions sought to be imposed by the railway company is one of indemnifying the company, its employees and those using the railway against injuries from the works or their operation, whether due to negligence on the part of the electrical company, its officers or employees or not, that condition should, I think, be imposed by our order.

April 18, 1907.

Re Brown Brothers Company's Complaint.

Complainants complained to the Board that certain shipments of perishable stock delivered by them to the Canadian Northern Railway Company at Warman, Alberta, consigned to L. D. Daily, Vegreville, Alberta, were so delayed in transit as to become a total loss, and asked if there was no relief that the Board could give in the matter.

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Held, Chief Commissioner Killam, that the subject-matter of the complaint was not one in which the Board could afford any relief; that section 284, subsection 7, of the Railway Act provided a remedy to any person aggrieved by neglect or refusal of a railway company to carry and deliver traffic without delay, that is, by action in the ordinary courts; that the function of the Board is to order the furnishing of accommodation and the appliances and means necessary therefor, in case of the failure of the railway companies to do so; that, as the complaint in question relates only to a particular previous shipment, no order that the Board could make would be of service to complainants; and that the Board was not created to take the place of the ordinary courts, but to exercise an entirely different jurisdiction. It was the function of the ordinary tribunals to award compensation for past breaches of the statute; that of the Board to prevent as far as possible future breaches.

April, 1907.

Re Ontario Lumber Company's Siding Agreement.

The Ontario Lumber Company, Limited, of Toronto, applied, under section 176 of the Railway Act, 1903, for an order directing the Canadian Pacific Railway Company to repay and refund to the applicant company the sum of \$830 by way of rebate out of the tolls charged by the railway company in respect of the carriage of traffic for the lumber company.

Under an agreement between the applicant company and the railway company, the railway company undertook to construct a siding and to refund to the applicant company the said sum of \$830, being the amount deposited by the applicant company as the estimated cost for the construction of the siding.

Held, that the Board had no jurisdiction to enforce the provisions of the said agreement under which the siding was built to the lumber company's premises; that at the time the agreement was made there was no provision in the Railway Act then in force corresponding to the provision in the present Railway Act, under which railway companies could be required to construct such sidings upon the condition, among others, that the deposit should be repaid by rebates from other roads; that the siding was constructed wholly under the agreement; and that the Board had jurisdiction only to enforce provisions of the Railway Act and not rights arising out of contracts.

June 27, 1907.

Re Robertson v. Grand Trunk Railway Company.

This was an application for an order directing the Grand Trunk Railway Company of Canada to issue third-class tickets at the rate of one penny for each mile travelled, and directing the company to provide at least one train having in it third-class carriages which shall run every day throughout the length of its line. The application was based upon a clause in the original Act of incorporation of the Grand Trunk Railway Company, which provided that the fare or charge for each first-class passenger by any train on the said railway should not exceed two pence for each mile travelled; the fare or charge for each second-class passenger by any train should not exceed one penny and one-half penny currency for each mile travelled; and that the fare or charge for each third-class passenger by any train on the said railway should not exceed one penny currency for each mile travelled.

These provisions have never been expressly repealed. The contention on behalf of the company was that they had been impliedly repealed by subsequent legislation.

By its special Act, the several clauses of the Railway Clauses Consolidation Act with respect, *inter alia*, to tolls, were made to apply to the company and its undertaking so far as these clauses were not inconsistent with the provisions of the special Act.

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The Chief Commissioner, in his judgment, traces the history of railway legislation from the Railway Clauses Consolidated Act, 1851, down to the present time, so far as such legislation relates to the question of tolls.

The Railway Act requires a railway company to furnish adequate and suitable accommodation for receiving, loading, carrying and delivering traffic, and to furnish and use all proper appliances, accommodation and means necessary therefor; to afford to all persons all reasonable and proper facilities for the receiving, forwarding and delivering of traffic. The Act empowers the Board to order the company to furnish such accommodation where it has failed to do so, and power is given the Board to order that specific works be constructed or carried out, &c.

Held, that the clause requiring the running of third-class carriages and limiting third-class fares was not affected by any legislation prior to the Act of 1903.

Judgment, in part, of Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier and Mr. Commissioner Mills:

‘As has been said, the provisions of the special Act have not been expressly repealed. None of the enactments in the Railway Act, 1903, or in the present Railway Act, are explicitly inconsistent with those provisions. The contention on the part of the railway company is that, in effect, those enactments, and particularly the portions relating to tolls and those giving the Board jurisdiction respecting the accommodation, &c., to be furnished by the company, are so inconsistent as impliedly to repeal the provisions of the special Act.

“If two inconsistent Acts be passed at different times, the last is to be obeyed; and if obedience cannot be observed without derogating from the first, it is the first which must give way.” Per Lord Langdale, M.R., in *Dean of Ely v. Bliss*, 5 Beav., at p. 582. But a “repeal by implication is never to be favoured.” Per Field, J., in *Dobbs v. Grand Junction W. W. Co.*, 9 Q.B.D. at p. 158.

“We ought not to hold a sufficient Act repealed, not expressly as it might have been, but by implication, without some strong reason.” Per Lord Bramwell in *G. W. R. Co. v. Swindon and Cheltenham R. Co.*, 9 A. C., at p. 809.

“A later Act of parliament hath never been construed to repeal a prior Act, without words of repeal, unless there be a contrariety and repugnancy between them, or at least some notice taken of the former law in the subsequent one, so as to indicate an intention in the lawmakers to repeal it.” Per Lord Hardwicke, L.C., in *Middleton v. Crofts*, 2 Atk. 650.

‘The court must be satisfied that the two enactments are inconsistent before they can from the language of the later imply a repeal of an express prior enactment.’ Per Byles, J., in *Conservators of the Thames v. Hall*, L.R., 3 C.D., at page 419; and in the same case Keating, J., said (p. 420): ‘I entirely agree with my Brother Byles that, before we come to that conclusion, we are bound to satisfy ourselves that it is a necessary implication.’

‘When the repeal is not express, the burden is on those who assert that there is an implied repeal to show that the two statutes cannot stand consistently the one with the other.’ Per Chitty, J., in *Lybbe v. Hart*, 29 ch. D. 8.

The intention to repeal must appear even more strongly where the first provision is contained in a statute of a private or special nature, in which case the maxim *generalia specialibus non derogant* usually prevails. ‘A later statute in the affirmative shall not take away a former Act, and *eo potior* if the former be particular and the latter be general.’ Gregory’s Case, 6 Rep. 19 b.

‘The law will not allow the exposition to revoke or alter, by construction of general words, any particular statute where the words may have their proper operation without it.’ *Lyn v. Wyn*, 2 Bridg., C.P. 127.

‘The general principle is that a general Act is not to be construed to repeal a previous particular Act unless there is some express reference to the previous legisla-

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tion on the subject or unless there is a necessary inconsistency in the two Acts standing together.' Per Bovill, C.J., in *Thorpe v. Adams*, L.R. 6 C.P. at p. 135.

'Unless two Acts are so plainly repugnant to each other that effect cannot be given to both at the same time, a repeal will not be implied, and special Acts are not repealed by general Acts unless there is some express reference to the previous legislation or unless there is a necessary inconsistency to the two Acts standing together.' Per A. L. Smith, J., in *Kutner v. Phillips*, 1891, 2 Q.B. 267.

'It is a fundamental rule in the construction of statutes that a subsequent statute in general terms is not to repeal a previous particular statute unless there are express words to indicate that such is the intention, or unless such an intention appears by necessary implication.' Per Bovill, C. J., in *Reg. v. Champneys*, L.R. 6 C.P. at p. 394.

'In order to show that a particular Act is repealed by a general Act by implication, it is not enough to show that the particular Act may have become useless or futile, that is to say, that the subject-matter of the particular Act comes within the terms of the general Act; it must be shown, as it seems to me, that there are enactments in the general Act, when rightly construed, inconsistent with the maintenance of the particular Act.' Per Brett, J., in *Reg. v. Champneys*, *supra*, at p. 404.

'Now, if anything be certain it is this, that where there are general words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, you are not to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force of such general words, without any indication of a particular intention to do so.' Per Lord Sherborne, L.C., in *Seward v. Vera Cruz*, 10 A.C. at p. 68.

'See also the enunciation of similar principles by Sir W. Page Wood, V.C., in *Fitzgerald v. Champneys*, 2 J. & H. at pp. 53-61.

'But all of these statements admit that, if the intention of parliament to that effect sufficiently appears, the later Act should be construed as repealing or varying the former Act, whether special or general, and several cases have been cited in which the courts have adopted such construction. In most of these the circumstances and the nature of the enactments vary so much from those with which we have now to deal that they do not appear to afford us any material assistance.

'In these cases the principles before stated are not contravened; in some they are expressly acceded to. Usually, the decisions turned upon the view taken by the court of particular language or of the scope and intention of the legislation as understood by the court. I will cite from but two of them. In *Daw v. Metropolitan Board of Works*, 12 C.B., N.S. 161, Willes, J., said: "The rule of construction of Acts of parliament as laid down by Vice-Chancellor Wood in the *London and Brighton Railway Company v. Board of Works*, 26 L.C., ch. 164, is no doubt a very wholesome one. A subsequent general enactment will not derogate from a prior special enactment. When, as the learned judge says, the legislature has had a special case in view, and has specially legislated upon it, the inference necessarily is that it does not intend by a subsequent general enactment not referring to the former, to deal with those matters which have already been specially provided for. The rule *generalia specialibus non derogant* is properly applicable to such a case..... In the present case, however, the rule cannot apply. The powers conferred by the two are substantially, if not strictly, the same. So soon as you find that the legislature is dealing with the same subject-matter in both Acts, so far as the later statute derogates from and is inconsistent with the earlier one, you are under the necessity of saying that the legislature did intend in the later statute to deal with the very case to which the former statute applied." And in the *Great Central Gas Consumers' Company v. Clarke*, 11 C.B., N.S. 814, Keating, J., said: "I agree that, when we find in an Act of parliament a prohibition against a public company exacting more than a prescribed rate, we should require a very clear enactment in a subsequent Act to remove the

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restriction, but it is equally clear that, if we find in a later Act of parliament provisions which are utterly inconsistent with those of an earlier Act, we are bound to give effect to the later provisions." And in the same case, 13 C.B., N.S. 838, Pollock C.B., said: "Although that section is not in terms repealed, yet it becomes a clause in a private Act, of parliament quite inconsistent with a clause in a subsequent public Act of parliament. That is sufficient to get rid of the clause in the private Act. Looking at the 19th section of the general Act, we think it is impossible to read it otherwise than as repealing the 24th section of the private Act. We are bound as well by the plain words of the Act as by the general scope and object of it, and also by the justice of the case."

'By section 3 of the Act of 1903, that Act was to be incorporated with and construed as one Act with the special Act, subject as in the general Act provided; and by section 5, in the event of inconsistency between the general Act and any special Act passed by the parliament of Canada relating to the same subject-matter, the provisions of the special Act were to be taken to override the provisions of the general Act in so far as should be necessary to give effect to the special Act. These provisions are combined in section 3 of the present Railway Act. This would settle the matter if the special Act had been one passed by the parliament of Canada, in which case, although earlier than the general Acts, the provisions of the special Act would prevail. But the portion of the Grand Trunk Railway to which the present application refers was constructed under a special Act of the late province of Canada. I have some doubt whether section 6 of the Act of 1903, and the similar section of the present Railway Act, under which the general Act is to apply to the exclusion of such of the provisions of a special Act of a provincial legislature as are inconsistent with the general Act, were intended to cover the case of a special Act passed by the parliament of the province before the union. The definition of the terms "legislature of any province," and "provincial legislature," in section 2, subsection (r) of the Act of 1903, and section 2, subsection 20 of the present Act, is probably wide enough to include such parliaments; and the Grand Trunk Railway was declared by an Act of the parliament of Canada to be a work for the general advantage of Canada. That declaration was included in an Act amending the general Railway Act, which, though referring specifically to the Grand Trunk Railway and other named railways, may not come within the definition of a "special Act." The Grand Trunk Railway was a railway connecting one province with another, and thus became *ipso facto*, upon the formation of the Dominion, subject to the legislative authority of the parliament of Canada without a declaration that it was a work for the general advantage of Canada. Section 6 was probably intended to apply to railways constructed under special Acts of provincial legislatures passed after confederation.

'Possibly, however, this may not be important, since section 6 embodies the most important of the beforementioned principles, that the prior special Act is repealed or affected by the general Act only where there is inconsistency between them; and I take it that, under either view, the burden is upon the party asserting it to point out the inconsistency, and that this should be made clear.

'The clause in the special Act is two-fold: It limits the fares for different classes of passengers, and it requires the running of third-class carriages. Necessarily, under the later portion, there was some obligation upon the company to furnish reasonable accommodation; some obligation to give some attention to the comfort and convenience of third-class passengers, even though this accommodation and attention should not be of the same character as required for the other classes. The legislation requiring the furnishing of adequate and suitable accommodation and the affording of reasonable and proper facilities, could certainly not affect a repeal of the provision for running third-class carriages, nor, in my opinion, can the legislation empowering the Board of Railway Commissioners to make regulations providing for the protec-

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tion, safety, accommodation, and comfort of the public. Whatever the obligations under the present Act or the former Acts, these could not satisfactorily be enforced by the ordinary methods in the ordinary tribunals. The Board of Railway Commissioners was created to be the tribunal for the settling of these and other matters affecting railways and railway companies. It does not appear to me that the creation of such a tribunal was in any way inconsistent with the continuance of the obligation imposed by the special Act, or could affect its repeal or evidence an intention of parliament that the obligation should be no longer effective.

Under the Railway Clauses Consolidation Act and all the succeeding legislation, down to the Act of 1903, railway tolls were subject to the approval of, and to be altered by, the Governor in Council. This limitation upon the company's powers was embodied in the special Act by reference to the general Act. The jurisdiction of the Governor in Council could exist, therefore, consistently with the limitation as to fares imposed by the special Act, and it does not appear to me that the substitution of the Board of Railway Commissioners as the body which is to approve, and which has the jurisdiction to alter, railway tolls, makes any change in this respect. Under the former legislation, all the railway tolls required the approval of the Governor in Council; under the present, it is only the standard of maximum tariffs which must be approved by the board; and railway companies are authorized to make special tariffs imposing tolls lower than those in the standard tariffs. The practice has been for the companies to obtain approval of standard passenger tariffs, not distinguishing between classes, and to provide for second-class fares by special tariffs. Third-class fares could be provided for in the same way. I do not think that the provisions requiring special tariffs are necessarily inconsistent with the limitations imposed by the special Act or that they are sufficient to indicate the intention of parliament that the company, in framing special tariffs, was to be free from such limitations.

I am not informed whether the third-class carriages were at any time used upon the company's railway. To my mind it is clear that the obligation to use them, and to carry at fares limited as in the special Act, continued up to the coming into force of the Act of 1903. I am unable to find in the subsequent legislation any sufficient indication of parliament to abolish the system originally imposed upon the company as having become obsolete or unnecessary. The imposition of this system was one of the terms and conditions upon which the company was granted its franchise, and it should not readily be presumed that parliament intended to relieve the company from such terms and conditions.

The application is limited to the portion of the Grand Trunk Railway between Toronto and Montreal, and it is unnecessary to consider whether the obligation ever extended to any other portion of the company's lines.

In my opinion, there should be an order requiring the company to run every day throughout the length of its line between Montreal and Toronto at least one train having in it third-class carriages, and forbidding it to charge third-class passengers fares at more than two cents per mile, and directing it to amend its special tariffs accordingly.

The operation of this order, however, should be stayed a sufficient time to enable the company to appeal.

Ordered accordingly.

An appeal from the board's order now pending before the Judicial Committee of the Privy Council.

Ottawa, July 4, 1907.

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Re Galt Board of Trade Application for Connections with the Canadian Pacific, Grand Trunk and Galt, Preston and Hespeler Railway Companies.

This was an application by the Galt Board of Trade, under section 228 of the Railway Act, for an order directing the above-named railway companies to connect their lines or tracks, in the town of Galt, province of Ontario.

Held, after the hearing of the parties interested, that an order should go requiring the Canadian Pacific Railway Company to make connection between its line and that of the Grand Trunk Railway Company at Galt, so as to admit of the safe and convenient transfer or passing of engines, cars and trains over the tracks or lines of one of the said companies to those of the order; and that such connection be maintained and used, the plans of location of the connecting line and of connections with the existing lines first submitted to and approved by the Board.

Held, further, that the order should direct the Canadian Pacific Railway Company, within one month from the issue of the order, to submit to the Board a plan and profile of the proposed connecting line and all connections with the existing lines and the connections thereof with the existing lines or railway of the two companies. The applications for connection with the electric railway company to stand for negotiations between the parties.

Ordered accordingly.

November 12, 1907.

Re Application of the Village of Weston for a Highway Crossing at Dennison Ave.

This was an application by the village of Weston, in the province of Ontario, under sections 250 and 237 of the Railway Act, for an order directing the Canadian Pacific and the Grand Trunk Railway Companies, *inter alia*, to construct and provide a public crossing at the east end of Dennison avenue.

Judgment, Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier, and Mr. Commissioner Mills: 'While the railway companies put up warning notices and occasionally closed gates on each side of their lines, thereby preventing any inference of intention to dedicate these portions of their lines to public use as a highway crossing, they took no effective steps to put a stop to their actual use by the public for this purpose, and the public have used the same for many years. Such a course of proceeding is highly objectionable. Railway companies should either fence off their lines and take steps to prevent the unlawful crossing of their tracks, or allow public highways to be placed across them where the public interests demand such a course. In tacitly conniving at these trespass crossings while endeavouring to protect themselves from liability in respect of the same, they are maintaining a public danger and ought not to expect the same consideration of their interests as in cases where it is sought to construct entirely new highway crossings over their railways. The multiplication of level highway crossings is certainly undesirable, but not so undesirable as the illegal level crossings.

'The order of the Board directed the railway companies to provide and construct a highway across their respective lines of railway at the east end of Dennison avenue, in the village of Weston, and reserved the question as to the protection of the said crossing for further consideration.'

November 13, 1907.

Application of the City of Winnipeg for leave to build a bridge over the Canadian Pacific Railway in the city, to be used as a public highway connecting Brown and Brant streets, in that city.

These streets are almost in the same line; the one on one side and the other on the other of the yard and tracks of the Canadian Pacific Railway Company.

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Although the public were in the habit of crossing the tracks of the railway company near the place where the proposed bridge was sought to be put, and planking maintained there for convenience in crossing, it was not claimed that any highway ever existed over the land occupied by the railway company in the line of these two streets or either of them.

The railway company did not object to the proposed over-crossing itself. The question was whether the company should contribute to the cost of the work.

By section 237 of the Railway Act, when an application is made for leave to construct a highway across an existing railway 'the Board may, by order, grant such application upon such terms and conditions as to protection, safety, and convenience to the public as it may deem expedient, or may order that the highway be carried over or under the railway, or be temporarily or permanently diverted.....'

By section 59, 'When the Board, in the exercise of any power vested in it by this Act or the special Act, in and by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used, or maintained, it may order by what company, municipality or person interested or affected by such order, as the case may be, and when or within what time and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used, and maintained.'

'2. The Board may order by whom, in what proportion, and when, the cost and expense of providing, constructing, reconstructing, altering, installing, and executing such structures, equipment, works, renewals or repairs or of the supervision, if any, or of the continued operation, use, or maintenance thereof, or of otherwise complying with such order, shall be paid.'

Judgment, Chief Commissioner Killam, concurred in by Mr. Commissioner Mills:

'While upon its face, section 59 appears to give the Board absolute jurisdiction to compel any company, municipality, or person interested or affected by the order to pay or contribute to the payment of such compensation, it cannot have intended that the Board should exercise such discretion arbitrarily without reference to the respective rights of parties interested or affected or proposed to be affected.

'If the property were that of a private person, through whose lands the city could carry a highway without his consent, the city would ordinarily be liable to compensate the landowner for the property taken and for the injury caused by the severance of the remaining property. In some cases the legislation provides for an allowance for any advantage which the property owner may derive from the contemplated work, or that the cost of the same be assessed upon the lands of the parties interested in or benefited by the work.

'The bridge now proposed to be erected can be of no benefit or advantage to the railway company. It will rest, in part, upon and thus occupy the surface of the company's lands, and it will extend through an upper space, which, by virtue of its ownership of the soil, is the property of the railway company. There seems to be no reason or principle upon which the railway company can be required to defray the cost of such a work or any portion thereof.

'I think that the city should have leave to construct the work at its own expense.'
November 15, 1907.

Re Bell Telephone Company and Windsor Hotel Agreement.

In the month of November, 1906, the Bell Telephone Company and the Windsor Hotel Company entered into an agreement for the installation of a telephone system by the telephone company in the Windsor Hotel.

As the telephone company's tolls had to be approved by the Board, the execution of the agreement was left in abeyance until the Board should have had an opportunity to consider the agreement, in so far as it related to telephone tolls.

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The main points as to which there could be considered to be any question, and with which the board dealt, were:—

1. The clause providing for exclusive use of the Bell telephone system in the building.

2. Rental of instruments.

3. Rates for local messages.

4. Long-distance rates.

5. Terms of agreement.

Judgment, Chief Commissioner Killam, concurred in by Mr. Commissioner Mills:

1. *Exclusive rights*.—I see no reason why the hotel company should not bind itself to take the Bell system only. No other is at present in sight, and the introduction of another would require considerable time. The Bell Telephone Company's rates being now subject to control by our Board, there seems to be no serious objection to such a stipulation.

2. *Rental of instruments*.—This is an agreement of a peculiar character. Very few of them are likely to come before the Board for consideration, and those that do will probably have different features. The size, situation of the hotel, number of rooms and of telephones will vary. I see no reason why the hotel company should not be allowed to agree to pay the rental stipulated in this proposed agreement. We should presume that the company is controlled by business men who are able to make their own agreements.

3. *Rates for local messages*.—The telephone company stipulate for a rate of 10c for connection. The impression that I have formed is that this rate, under the circumstances of the service, is not an unreasonable one. My present inclination is to the view that if telephone rates are to be in any respect reduced, that reduction should come, in the first place, from the annual charges to regular subscribers, and, secondly, from long-distance rates, leaving the 10c. rate for casual messages as at present; but it would probably be wise to provide that this rate is to be subject to any reduction which the Board may at any time order.

4. *Long-distance rates*.—The agreement (par. 17) provides for payment of 'the telephone company's regular toll charges.' These charges must be made at rates approved by the Board, so that there can be no objection to this stipulation.

5. *Terms of agreement*.—I would provide that, after the period of ten years, any extension shall be subject to the approval of the Board.

I think that we may properly approve the agreement with the two conditions which I have mentioned:—

1. That the charge of 10c. for each connection had over any telephone hereby leased with the Montreal exchange subscribers of the telephone company shall be subject to reduction at any time by the Board.

2. That any extension of the term of the agreement after the expiration of ten years shall be subject to the approval of the Board.

November 23, 1907.

Re The Robertson-Godson Company's Complaint.

The Robertson-Godson Company complained to the Board that they were assessed a class-rate by the Canadian Pacific Railway Company on a shipment of paving blocks from Edmonton to the Pacific coast, whereas the lumber rate should have applied, which meant, they alleged, a considerable loss to the company. The railway company took the position that the lumber rate did not apply, as that rate could only relate to those articles specifically mentioned in its tariff filed with and approved by the board, and that this list of articles did not include street paving blocks.

The complainants' contention was that paving blocks were nothing more than fire lumber, and, therefore, should be included in the classification. They asked the

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ruling of the Board as to whether their contention was correct or not, and, if correct, whether they were not entitled to a refund.

Held, that the Board had no jurisdiction to direct or authorize the railway company to make any rebate in the rates charged under tariffs lawfully existing when the goods were carried, and that the only action which the Board could take would be to require that paving blocks be included in the commodity tariff; but that this action could not affect past transactions.

November 29, 1907.

Re Vancouver, Victoria and Eastern Railway and Navigation Company's Application to Expropriate Lands in the Municipality of Delta, B.C.

In August, 1907, the Board made an order authorizing the Vancouver, Victoria and Eastern Railway and Navigation Company 'to divert the Ladner highway along the Fraser river, known as the River road, in the said municipality of Delta, to the extent and in the manner shown in pink as route No. 2 on the plan and profile on file with the Board.....; and to maintain, construct, and operate its railway along and upon the existing portions of the said highway between the points of diversion.'

On the 29th October of the same year, the railway company applied, under section 178 of the Railway Act, for authority to expropriate certain lands for the purpose of the diversion of the highway mentioned above, under the Board's order. The land sought to be taken was a strip coloured red on the plan accompanying the application, and was necessary for the highway along the route prescribed by the Board's order. The company's application stated 'that, by-law dated the 12th day of November, 1906, the municipality of Delta gazetted a highway between the termini of the diverted highway and the land coloured red on the plan filed herein practically coincided with the said highway except where it is of a greater width than 66 feet, and then only as to the excess and also where it crosses the ravine on lot 16, group 2.'

The application also alleged 'that it is necessary, in order to construct the diverted highway in accordance with the order of the Board of Railway Commissioners for Canada, to take the whole of the land coloured red on the plans filed herein—where the land required is of a greater width than 66 feet the road crosses ravines or follows along steep hillsides—and the width shown is necessary in order to construct the said highway, and for no other purpose.'

Another of the parties whose property was sought to be taken filed answers stating merely that it was not necessary for the company to take the lands referred to in the application. By consent of the parties the application came on for hearing at Ottawa, when the question of the necessity for taking the land coloured red on the plan was not raised; but counsel for a number of the landowners requested that certain conditions be imposed upon the railway company. These conditions were referred to the railway company by its counsel, which refused to accept the terms, except one for allowing rights of crossing on foot over the railway to the river. The River road ran along the river bank in some places close to the foreshore; in other places leaving small pieces of land between it and the river. The Fraser river opposite the place in question is a tidal navigable river. Counsel for the landowners stated that the township of Delta had passed a by-law for the diversion of the highway practically covering the diversion ordered by the board. The railway company claimed to have a grant from the provincial government of the foreshore along the diverted portion of the highway.

At a later hearing one of the conditions asked for by counsel for the landowners was expressly abandoned, and two others not really insisted upon. Those asked for were, first, a condition requiring the company to pay compensation to the landowners for the portion of land on which the railway was built, upon the basis that the land on which the railway runs reverts to the owners of the adjoining lands upon the closing of the highway. Condition two—that the company pay compensation to the

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owners of the land for the right of way over the diverted highway; and the third condition was one for certain crossings and the right to build and maintain landings and net houses on the company's right of way next the river and opposite the lands of the respective owners.

Judgment, Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier on December 26, 1907.

Referring to the first condition sought to be imposed:

'It is not at all clear that such is the effect of the diversion; if so, the party in whom the land occupied by the old highway vests will naturally be entitled to compensation for the taking of his land by the railway company. If such is not the effect, then there is no reason why compensation should be given on such a basis. If the municipal by-law was sufficient of itself for the diversion of the highway and to close the old highway to public traffic, the question of the landowners' right to compensation must be determined by the local law and by the local courts. If it was not sufficient and the closing of the old highway is affected by the exercise of the company's powers under the Railway Act and the board's order, the landowners should be left to take such compensation as under the Railway Act they are entitled to. This application is one for taking a strip out of another portion of their lands, and it does not appear that any condition should be imposed not directly relating to the taking of the land for which authority is now sought.'

Referring to the second condition:—

'It is not necessary to impose a condition for that purpose. The parties whose lands are taken have a right to compensation under the Railway Act for the taking of their land and the injury done by severance of the remainder. This is admitted by both parties.'

Referring to the third condition:—

'As I have said, the railway company is willing that foot crossings should be allowed to these owners. Apparently the land is not suitable for crossing otherwise than on foot, and it is reasonable that these parties should have crossings in the nature of farm crossings, particularly those whose holdings extend to the river side. These latter need no condition to enable them to have landings and net houses. As to those whose land does not extend across the highway, it is reasonable that they should have access to the water; but there seems to be no reason for imposing upon the railway company an obligation to give up for the purposes of landings or buildings any land not belonging to the parties whose lands they are taking. I think that the order authorizing the company to take the land applied for should be granted, with conditions that the foot crossings, to which Mr. Ritchie at the last hearing limited his request, shall be allowed by the company.'

Order, dated December 26, issued accordingly.

Judgment in dissent, Mr. Commissioner Mills:—

'I am strongly of the opinion that the Railway Commission should not open the way for law-suits, nor advise people to go to the local courts to determine and obtain their rights, unless it is really necessary to do so.

'Taking the case of six or seven poor fishermen on the banks of the Fraser river, in the township of Delta, B.C., I think it is cruel to send them to the local courts to settle the points at issue between them and the Great Northern Railway Company, when the problems submitted can be solved and the suggested law-suits avoided simply by putting into the order for expropriation the terms and conditions on which the railway company can obtain the rights and privileges for which it has applied under section 178 of the Railway Act.

'It is possible that these concessions or conditions should have been imposed when the application for approval of location was under consideration; but I, for one, was not aware of the facts at the time; and I would rather vary the order approving

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of the location, if that is necessary, than send such people to the courts to obtain their rights. I maintain, however, that these rights can be secured by imposing conditions in the order now applied for.

‘As nothing is gained by dissenting judgments, I have ventured to submit an alternative draft order embracing two conditions not yet approved of by my colleagues; and I wish to state briefly my reasons for asking that these conditions be imposed upon the applicant company.

‘*First.*—As to the compensation of the owners of land, for the portions of their land which were formerly given for the river bank road, which portions the railway company has recently been authorized to take. The company contends that, inasmuch as it has to buy land for a new road on the hillside, it should not be required to purchase any portion or portions of the road which it is taking along the river bank. I think, however, that the claim of the landowners is a reasonable one, because they gave their land along the river bank without compensation, for the purpose of getting a level or comparatively level road in that locality. This road is now taken from them for the benefit of the railway company; they are deprived of the benefits which the grant of that portion of their land was made to secure; and a very crooked road at an elevation of 93 feet up the hillside is not equivalent for the road of which they are deprived.

‘I think that any one who notices how crooked the proposed road on the hillside is and bears in mind that, according to the statement of our engineer, it involves an ascent of 93 feet above the level of the present road, will admit that it is not, in any proper sense, an equivalent for the latter; and that, therefore, the railway company should not only provide and construct the inferior high-level road, but pay the complainants for the portions of their land which were given for the comparatively level and much better road by the river.

‘This is my reason for thinking that the request of the people set forth as condition 3 in the draft order submitted should be granted.

‘*Second.*—Inasmuch as the men herein referred to are all fishermen depending upon access to the river for their livelihood, they should not be refused the right to construct net houses and landing-platforms along the river bank. To refuse them this privilege is to drive them out of business, making the remainder of their land valueless and compelling them to go elsewhere. This, I think, is something which the board should not do; and, for that reason, I would suggest that they be each allowed to build a net house or net houses and a landing-platform or platforms on the right of way of the applicant company, where it comes to, or within 25 feet of the Fraser river, provided he does not occupy more than 80 feet of space along the river bank and does not build, construct, or place any structure or thing within 25 feet of the centre line of the right of way of the applicant company.

‘Application was made for permission to occupy, for such purposes, the land on the river bank, to within 20 feet of the centre line of the railway track; but, with a view to provide for the possibility of a double track, I have increased the space to 25 feet from the centre line of the right of way, allowing the applicants, for the length of 80 feet on each lot, to use the right of way for a width of only 25 feet (instead of 20 feet), wherever the said right of way comes within 25 feet of the river; and I am making this suggestion as a compromise, in the hope that it may be approved by my colleagues—granting the landowners the privilege of building and using net houses and platforms as above, on condition that they keep distant 25 feet, instead of 20 feet, from the centre line of the right of way of the railway company. (See sketch of right of way and double track line submitted herewith.)

The death of Chief Commissioner Killam having occurred before the above suggestions were considered, and the Deputy Chief Commissioner having since concurred in the judgment of the late Chief, I have to dissent from the said judgment and the order based thereon.

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Re Complaint of C. R. Banks.

This was a complaint against the Dominion Atlantic Railway Company, alleging that as a result of delay in forwarding a consignment of cornmeal shipped by the St. John Milling Company of St. John, N.B., to complainant at Torbrook Mines, in Annapolis county, province of Nova Scotia, complainant suffered a loss of 10 cents per hundredweight, amounting in all to \$30; and applied to the board for redress.

Held, that the Board had no power to award complainant damages for the delay; that the complaint was in respect of one single shipment, and there was nothing to indicate that such delays were frequent or that the investigation was necessary for the purpose of devising a remedy for a defective system; that the remedy of the party aggrieved was to be found by action in one of the regular courts; and referred complainant to subsection 7 of section 284 of the Railway Act.

January 23, 1908.

Re Highway Crossings over Railways.

If there is no established highway over the railway, the board has no power to compel the railway company to make and maintain such a crossing. The board's jurisdiction is confined to giving to the municipal authorities the power to carry and construct a highway across the railway.

Chief Commissioner Killam.

January 28, 1908.

Re Moor Lake Accident.

This accident was the result of a head-on collision at Moor lake between the Canadian Pacific Railway Company's passenger train No. 8, coming east, and extra engine 1715, going west, on the night of November 14, 1907, near Moor Lake, in the province of Ontario, in which the engineer was killed and a number of passengers more or less seriously injured, and the mail car, with its entire contents, including a very large number of registered letters and articles and ordinary mail matter, were completely destroyed.

Application was made to the Board by the Post Office Department, and the representatives of the engineer killed, for a copy of the report of the Board's inspector.

Held, that the inquiries and reports of its accident inspectors are made for the purpose of informing the Board in the public interest only, and in order to enable the Board to judge of the causes of accidents and the rules and precautions to be made and taken for the purpose of avoiding them in future, and not for the purpose of giving information to parties desirous of making claims against a railway company for injury to person or property; that this rule was adopted not only because the Board did not consider that its function was to obtain information for the purposes stated, but also because the Board did not desire that railway officials should be deterred from giving information to the Board's officials through fear that it would be used in support of claims against the companies.

January 29, 1908.

Re Complaint of J. Wilson v. Canadian Pacific Railway Company.

Complainant's horses got on the track of the Canadian Pacific Railway Company between Nanton and Parkland, in the province of Alberta, at a public crossing and were killed. It was alleged that there were no guards of any kind to keep the horses from getting on the track, and estimated his loss at \$850.

The Board took the matter up with the railway company, and was informed that proper cattle-guards had been installed at the crossing.

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Held, that the Board has no power to compel railway companies to pay claims for damages for cattle killed upon railway tracks, as the statute expressly provides that the remedy is to be by action in a court of competent jurisdiction; that the Board's only function in this respect is to see that provisions of the statute respecting fences, cattle-guards, &c., are properly observed.

February 8, 1908.

Re Basil H. Malaher's Complaint.

Basil H. Malaher, of Marshall, in the province of Saskatchewan, the complainant, alleged that he had been overcharged the sum of \$9.97 on the carriage of goods from Liverpool, via Halifax, to Floydminster, the nearest station to Marshall. Under the bill of lading the sum of \$20.94 was to be paid. The amount charged and collected by the agent of the Canadian Northern Railway Company at Floydminster was \$31.90, making an overcharge, as alleged, of \$9.97.

Held, Chief Commissioner Killam and Deputy Chief Commissioner Bernier, after inquiry into the subject-matter of the complaint, that the Canadian Northern Railway Company had received for carriage from Emerson, Man., to Marshall, in the province of Saskatchewan, only the lawful rate of 25 cents per 100 pounds; that the charge made to complainant for the whole carriage from Liverpool to Marshall, Sask., was in accordance with the lawfully existing joint through tariff, and that the Board had no jurisdiction to enforce any special contract for rates other than those set out in the lawfully existing tariff, or to compel either the railway company or the steamship company to make any reduction from this charge; and that any relief to which the complainant would be entitled could only be obtained by action in the ordinary courts.

February 12, 1908.

Re Application of the Village of Mannville, in the Province of Alberta, for Crossing the Canadian Northern Railway Company's Line of Railway.

This was an application, under sections 252 and 253 of the Railway Act, for an order directing the Canadian Northern Railway Company to provide and construct a suitable street crossing where the railway company's railway interests the village of Mannville, in the southeastern quarter of section 50, range 9, west of the fourth meridian.

Under 'The Village Ordinance' of the Northwest Territory Ordinances, cap. 72, 1905, no authority is conferred upon villages in the province of Alberta to open up highways across private lands.

Held, that the Board had no power to compel railway companies to open up highways across their lands; the function of the board, under section 237 of the Railway Act, was to give leave to a municipality or other authority having power to open up new highways, to do this across a railway; but this legislation is based upon the view that the railway company's land has been devoted to a statutory use; and that, in the absence of statutory provision therefor, the municipality or other road authority could not construct a highway over the railway lands.

February 13, 1908.

Re Robertson and Chatham, Wallaceburg and Lake Erie Railway Company.

This was an application by Arthur K. S. McA. Robertson for rescission of an order of the board granting leave to the Chatham, Wallaceburg and Lake Erie Railway Company to carry its line of railway upon and along certain streets in the city of Chatham. The applicant's objection related only to the portion of the railway to be carried along Queen street and to its location on the street opposite property of the applicant. Under the order, the railway was authorized to be located on the side of

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the street next the applicant's property, the centre line of the track to be nine feet four inches from the centre line of the street. The applicant asked that it be located in the centre of the street, and claimed that the approved location was very injurious to his property.

The plan showing the location of the railway in the city of Chatham was approved by the Board, subject to the terms and conditions set forth in by-law No. 815 of the city of Chatham. This plan showed the railway to be apparently located along the centre of Queen street. The by-law referred to was one authorizing the city to lend to the railway company a certain sum of money, and provided, among other things, that before the work was commenced on any section or portion of the company's railway in the said city of Chatham, the plans setting forth the proposed location of the company's tracks were to be first submitted to the engineer of the city for approval and should not be altered thereafter without the consent of the said engineer; and that no work should be done by the company upon any of the streets of the city until the engineer had approved of the location of the same.

By by-law No. 946 the company was authorized, 'subject to the terms of an agreement to be entered into between the corporation of the city of Chatham and the Chatham, Wallaceburg and Lake Erie Railway Company, to lay down and construct a street railway upon the following streets, or portions of streets.' Among these was Queen street, from William street to the southern limit of the city. By the by-law it was provided that the location of the line of railway in any of the streets aforesaid should not be made until plans thereof showing the position of the rails, poles and wires were submitted to and in writing approved of by the city engineer and chairman of the industrial committee, or of such other committee as the council for the time being should appoint for the purpose.

By by-law No. 1013, reciting the previous by-laws, and that it was 'desirable to define the terms of the agreement to be entered into as aforesaid under the said by-law No. 496,' many provisions were made respecting the company's railway, among which were the following:—

'(25) The location of the line of the said railway on the said streets, and the position of the rails, switches, turn-outs, and other works thereof, shall be shown upon plans, with figured dimensions showing the distance of all their works from the side lines of the streets, which shall be submitted to the said engineer and chairman of the industrial committee, or of such other committee as the council for the time being shall appoint for this purpose, and none of the said works shall be commenced until the said plans have been submitted to and approved of as required by section 9 of said by-law No. 946, and the same shall not be altered thereafter without the consent of the said engineer and chairman.'

By the indenture between the company and the city, reciting the several by-laws mentioned, the company accepted the by-laws and covenanted and agreed that it would in all things conform to, obey, perform, observe, fulfil and do all and every the terms, agreements..... in the by-laws contained, and would do and perform all matters and things which the by-laws provided to be done by or on behalf of the company, and would not do anything which the by-laws provided was not to be done by the company.

At the hearing at Chatham of the application of the company for leave to carry and construct its railway upon and along certain highways in the city of Chatham and in other municipalities, it was stated that, under by-laws 815 and 946, the city granted a franchise on certain named streets (among which was Queen street), and reference was made to the approval by the board of the location plan, but the proposed location of the railway upon the streets was not otherwise specified. The result of the hearing was that the order was to go subject to the filing of certain plans and the agreements. The plans subsequently filed showed a location on Queen street west of the centre line of the street.

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Later, the Board made an order granting leave to the company to carry and construct its railway upon, along and across certain named streets (among which was Queen street), as shown on the plan submitted, subject to the terms and conditions of the laws and agreement mentioned. The order not to issue until the plan had been first approved by the city.

Judgment, Chief Commissioner Killam: 'When the matter came before the Board at Chatham in December, 1905, the Board required to be satisfied, by production of the by-laws and agreements, that the necessary consent of the city to the carrying of the line along the streets had been given. When these by-laws and agreements came to be produced, it appeared that the locations upon the streets were to be fixed by officials of the city, and the Board was furnished with evidence that these officials had fixed the location along Queen street as approved by the Board's order.

It appears to me that it was quite competent for the Board to give leave to carry the railway along a different portion of the street from that set out in the plan to which the application referred, without requiring the making of a new application—and this, whether the change was made at the request of the railway company or against its will.

It appears to me that it was quite competent for the Board to give leave to carry the railway along the street upon a location different from that shown by the location plan approved by the Board. In approving a location plan, the Board does not usually determine precisely where a railway shall cross another railway, or where it shall run across or along a highway; and when the application to cross another railway, or to cross or run along a highway, comes before the Board, it might allow this at a different place or upon a different location from that laid down upon the approved location plan without requiring another location plan to be submitted or an application to be made to authorize a deviation; and the Board's order in such a case is sufficient to authorize the necessary deviation.

When the order in question was made, the Board had been furnished with the evidence of the location upon Queen street, fixed by the proper city officials under the by-law for this railway. The formal plan embodying this conclusion had not reached the Board, but the Board might well determine upon the material that the railway should be allowed to be carried along the street as approved by the city officials, and it might well entrust to its secretary, to whom the order was to be forwarded to be sealed and issued, the duty of examining the plan and ascertaining that it indicated the line as thus approved. I think the Board could thus make the order, although when it was signed the plan was not yet in the secretary's hands, but to be issued after the receipt of the plan and the making of the comparison which the secretary was directed to make.

The company's application for leave to place its railway upon the public street was not a 'complaint,' which, under section 20, the Board was bound to hear and determine in open court on application by any party to it. But the request for a hearing was not one which the Board would ordinarily refuse, and in this case, in view of the agreement for a settlement of the injunction proceedings, the order should not have been made without such a hearing. All of the parties—the city, the railway company, and Robertson—have now been heard and have adduced such evidence as they saw fit upon the question of the location of the railway along Queen street in front of Robertson's property. The railway has been constructed along the side of the street in accordance with the location prescribed by the city engineer and chairman of the committee except opposite Robertson's property, where it has been temporarily carried along the centre of the street. The chief engineer of the board has reported that he is 'of opinion that, as the present road is a country road and not paved, the track should go as the plan originally intended—to one side; but that, if in the future Queen street should be paved as similar streets in Chatham, the tracks could be moved to the centre at very little expense.'

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I think it is clear that the placing of the railway along the centre of the street would interfere unduly with the use of the street, and be injurious to the public interest. On the other hand, I have no doubt that the placing of the railway where the company and the civic officials desire to place it would injuriously affect Robertson's property. I am, however, of opinion that the construction and operation of the railway will materially benefit the property, and that the property, with the railway upon the side of the street, will be more valuable than if the railway should not be, or had not been, constructed at all. At present, the land is wholly vacant, a few scattered dwellings are to be found on the other side of Queen street, and there is a probability that the city will grow in that direction and that there will at some time be a demand for lots in that locality for residences, factories, warehouses, &c. The opportunity to procure spurs from this railway should enhance the value for industrial or commercial purposes. While there is not at present a frequent passenger service upon the railway, this must naturally be increased with the growth of the city. At one time Robertson proposed to widen the street in front of his property by giving up a strip along it for the purpose. This fact affords some evidence that such a use of this strip would leave him with property not less valuable than the whole would be if he retained the strip. If he should now widen the street in this way, the railway would then be along the centre of the street, and the remaining property, with the advantages afforded by the railway, would probably be more valuable than the whole is at the present time.

It appears to me that, if we were now hearing the original application, and had before us the evidence which has been given and the arguments advanced on Robertson's behalf, we should still make the order unconditionally, giving the company leave to carry the railway along the street as is proposed by the company and the city.

Judgment, Deputy Chief Commissioner Bernier: "In this case two principles are involved:

'1. The control, as trustee for the public, of the streets within the limits of the city of Chatham, which, by by-laws, has determined that the electrical road of the Chatham, Wallaceburg and Lake Erie should be located according to the decision of its officials.

'2. The claim for damages to property owners alongside the streets where the said electric road was to be constructed and operated. I have already expressed my views with regard to the absolute power of the municipalities to fix and determine the terms and conditions with which the railway intended to be constructed would have to comply; the Board to conform its order accordingly. As to the question of compensation or damage, it rests entirely between the immediate landowners and the municipality which has chosen the location of the railway, and to be determined by the ordinary courts of justice.

'The Board is not in a position to fix the compensation, as the damage cannot be appraised without the intervention of the municipality and the parties who may suffer by its decision; such power, in my opinion, not having been granted to the Board.

'My opinion, therefore, is that the order should go according to the decision of the city of Chatham, leaving to the interested parties their recourse to the ordinary tribunals.'

Judgment in dissent, Mr. Commissioner Mills:

The council of the city of Chatham, wishing to have the Chatham, Wallaceburg and Lake Erie Railway run through the city, passed a by-law granting the said company leave to lay its track along the centre of Queen street, in the said city.

After a time, the city, or its aldermen, came to the conclusion that the said track on the centre of Queen street would likely interfere with farm traffic coming into the city along the said street; so a new council at a later date, passed a resolution directing the said company to lay its track, not in the centre of the said street, but on the west side thereof, 9 feet 4 inches distant from the centre, the street being 66 feet wide.

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It was alleged, and not denied, at the hearing, that, according to the city by-laws, a space 21 feet wide had to be left on each side of the street for sidewalk, boulevard, curb, and gutter; and the plan approved by order of the Board dated the 15th July, 1907, places the railway track 21 feet 4 inches from the west side of the street, leaving only four inches between the track and the gutter. With such an arrangement, it is manifest that horses with vehicles cannot pass or be tied between the railway track and the west side of the street; and the owner or owners of land on the west side of the street will have no access by vehicles to the front of their property.

Mr. A. K. S. McA. Robertson owns land on the west side of the said Queen street. His land has a frontage of 3,300 odd feet on the street; in fact, it extends nearly the whole distance throughout which the railway is to run on the side of the street, and the only way to make this portion of his property accessible will be for him to add to the street a strip of his own land, 9 feet 4 inches wide, throughout the whole length of his frontage, viz., 3,300 odd feet.

Even if the city should change its by-laws so as to dispense with a boulevard on each side of the street, it would leave only 5 feet for a driveway including the gutter, which every one of any experience knows is not sufficient for the purpose; so it is clear to my mind that Mr. Robertson's property will be materially injured by the running of the railway along the west side of the street in front of his land.

It is true that the property in question is vacant land at the present time; but it is land within the city limits—land which has paid and is paying heavy city taxes; and in case it is decided that it is a fair and reasonable thing to have the railway run so near the said land as to prevent vehicular access to the front thereof, for a distance of 3,300 odd feet, it is morally certain that a great portion of it will *remain* vacant for years to come unless Mr. Robertson is prepared to widen the street at his own expense.

If the Chatham, Wallaceburg and Lake Erie Railway were a street Railway proposing to give to Mr. Robertson and others in the city of Chatham a street railway service and to confer such benefits as usually result from the running of a street railway in a city, I would be disposed to say that the advantage of such a railway beside Mr. Robertson's land might be regarded as offsetting the damage which will result from placing the track so close to his property as to prevent vehicular access to the portion which fronts on the streets; but the said railway is not a *street railway* in the city of Chatham or anywhere else, but a rural electric railway proposing to run once every hour, within certain time limits, for freight and passengers, from Wallaceburg, south, through Chatham, to Lake Erie. It will certainly damage the front of Mr. Robertson's property; and it is doubtful whether it will do much, if anything, to increase the value of land there or anywhere else in the city, beyond what the Grand Trunk and the Canadian Pacific lines have already done.

Why should the corporation of the city of Chatham, for its own benefit, in order to accommodate the traffic which it wishes to have along Queen street, place a private citizen like Mr. Robertson at a disadvantage as compared with citizens on the opposite side of the street. And why should it make it necessary for him to add a portion of his property to the street without allowing him any compensation therefor?

Therefore, I think the order of July 15, 1907, should be confirmed and allowed to stand *only on condition* that Mr. Robertson is allowed reasonable compensation, say, \$900 for the strip of his land (9½ feet by 3,300 feet), which he will have to add to the street in order to get vehicular access to the front of his property, and thus make it saleable for either residential or business purposes; and as the railway was first located on Queen street by permission of the city, and the location was changed from the centre to the side of the street by the city, and solely for the benefit of the city, the city should pay the said compensation; but the question of payment is one which must be left to the city and the company to settle between themselves.

Ottawa, November 23, 1907.

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PRINCIPAL JUDGMENTS DELIVERED BY THE BOARD.

March 31st, 1908, to March 31st, 1909.

Robertson v. Grand Trunk Railway Company of Canada.

This, it will be remembered, was an application to the Board for an order directing the Grand Trunk to issue third-class tickets at the rate of one penny for each mile travelled between Toronto and Montreal; and the Board (6 Can. Ry. Cas. 494) after hearing the application, held that an order should go requiring the company to run every day throughout the length of its line between Montreal and Toronto, at least one train having in it third-class carriages, and forbidding it to charge third-class passenger fares at more than two cents a mile; and directing the company to amend its special tariffs accordingly. The operation of the order, however, was stayed to enable the company to appeal. The Supreme Court of Canada dismissed the appeal with costs (39 S. C. R. 506) 7 Can. Ry. Cas. 267. The railway company carried the case to the Judicial Committee of the Privy Council, which also upheld the judgment of the Board. (1909) O. C. 325; 9 Can. Ry. Cas. 149.

Re Interswitching.

In pursuance of the judgment of the Board, as delivered by the late Chief Commissioner (Honourable A. C. Killam), reported in the third report of the Board, pages 140 *et seq.*, 7 Can. Ry. Cas. 302, the report of its Chief Traffic Officer on the subject of interswitching was forwarded to the various complainants and applicants, as well as to the railway companies interested; and after considering the views of the Canadian Freight Association, as contained in a letter from the chairman of the association to the Board, dated May 11, 1908, the order, dated July 8, 1908, issued. (See ante p.) 7 Can. Ry. Cas. 332-335.

Doolittle & Wilcox v Grand Trunk and Canadian Pacific Railway Companies.

This was an application by a number of stone quarry operators, under section 323 of the Railway Act, for an order disallowing the proposed increase in freight rates for the carriage of stone on the railway of the Canadian Pacific and Grand Trunk Railway Companies.

Judgment, July 29, 1908, Chief Commissioner Mabey, 8 Can. Ry. Cas. 8.

This application is made by a number of stone quarry operators for an order, under section 323 of the Railway Act, disallowing the proposed increase in freight rates for the carriage of stone upon the Grand Trunk and Canadian Pacific Railways. The increase was 5c. per ton within certain areas. The case, however, upon the hearing was much enlarged and assumed the feature of not being a serious attack upon the proposed 5c. increase, but rather more a proposition submitted for the establishment of entirely new rates, upon a mileage basis. The applicants represent quarries in operation at some eight points, all within 50 miles of Toronto, the principal market. The applicants are not unanimous in their views; and one of them has communicated to the Board his satisfaction with the 5c. increase, provided the rates are not reduced from individual quarry points.

I do not think the attack upon the 5 cent increase has been successful. The stone rates to Toronto have always been low; and I am constrained to think that the case would not have been given the attention it has received, had it not been with the hope of persuading the Board to adopt a mileage basis for stone rates.

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Now, it is apparent that the quarries located at greater distances from Toronto than the applicants are vitally interested in this matter, as upon this low grade material, with competition keen and prices cut, any disturbance in rates might, and doubtless would, work to the irreparable injury of many interests which have had no notice of this application and no opportunity of being heard. So, had I formed the opinion that it was the duty of the Board to adopt in whole or in part the basis of rates argued for by the applicants, I should have directed these other interests to be notified and given an opportunity to present their views before disturbing the existing order of things. The fundamental ground of the application is to have mileage form the sole basis in making these rates. To those who have not had experience in rate-making the argument that distance must be the principal factor appeals with force; but the history of these cases shows that, while it is of course to be considered, yet in many instances it is a minor matter; and I am not aware that either in England or the United States it has been held by the rate-controlling tribunals that they are bound to regard mileage as the controlling factor. If the argument of Messrs. Doolittle & Wilcox were acceded to, it would have the effect of destroying large industries where proprietors have in good faith invested their money and built up a business connection, and turning over to these quarries in the short-haul zone the control of the Toronto market. Of course, no such destruction of capital and consequent hardship upon innocent persons can be permitted, if any other course is open. There are many reported cases in which the Interstate Commerce Commission has paid little or no attention to distance of haul; and the business interests and demands of this country are much the same as there.

The proposal submitted and elaborated in evidence by Mr. Doolittle was ingenious and displayed much industry and care in preparation. The plan suggested was that for the first forty miles the rate be $\frac{1}{2}$ -cent per ton per mile plus 25 cents per ton terminal charges; from forty-one to seventy miles, $\frac{1}{2}$ -cent per ton per mile plus 20 cents per ton terminal charges; and above seventy miles, $\frac{1}{4}$ -cent per ton is added to the 70-mile rate. Now, the rate of $\frac{1}{2}$ -cent per ton per mile for short hauls is admitted by Mr. Doolittle to be the lowest stone rate; and this, applied to the longest haul, is his basis. The objection to his terminal charge is that terminal cost varies; and he provides for this cost only at delivery points and not at the quarries. Now, there is nothing that requires this Board to compel the carriers to frame their rates upon a basis of the kind proposed; and when it appears that the adoption of such a rate basis would work destruction to many existing industries, enure very largely to the benefit of the applicants, or some of them, and probably in no way reduce the price of stone to the consumer—possibly increase it—I am unable to see why the application should succeed. Comparison with rates upon other low-grade commodities was made; but when each instance was investigated, reasons for differences appeared. The reason for low rates upon clay from Waterdown to Hamilton and other points, and upon marl, iron ore, and the like, is that these rates are based upon the reshipment by rail of the finished products of these raw materials. Low coal rates, of course, result from the composition of water carriers.

It strikes me as not unreasonable that the quarry near Toronto should enjoy the benefit of its natural location; but these nearby quarries has submitted for years to the establishment of these artificial rates by the companies, and without complaint have seen their outside competitors invest their capital and develop their industries; and it could hardly be regarded as fair that the short-haul quarry proprietors should, through the instrumentality of this Board, be enabled entirely to destroy their more distant brethren.

The chief traffic officer has made some revision in the scale of rates from some of the shipping points; and, as revised by him, the following will be the shipping points, distances, as follows:—

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From.	Miles.	Rates in cents per ton.
Cooksville..	12	45
Georgetown..	27	55
Glen Williams..	30	55
Milton..	30	55
Terra Cotta..	33	55
Campbellville..	36	55
Cheltenham..	35	55
Inglewood..	38	55
Dundas..	42	55
Schaw..	43	55
Credit Forks..	43	55
Cataract..	46	55
Orangeville..	46	55
Guelph..	47	55
Alton..	49	55
Galt..	55	55
Elora..	61	55
Fergus..	64	55
Shelburne..	62	60
Hagersville..	67	60
Kirkfield..	73	60
Cameron..	74	60
Niagara Falls..	77	60
Fells..	86	60
Burnt River..	91	60
Longford..	92	60
St Marys..	97	60
Owen Sound..	119	60
Ivanhoe..	120	60
Crookston..	133	65

Order, dated July 29, 1908, issued accordingly.

Weganast v. Grand Trunk Railway Company.

Mr. F. W. Weganast of Brampton, Ontario, applied to the Board for an order directing the Grand Trunk Railway Company to issue to him a fifty-five trip ticket for use between Brampton and Toronto, similar to those in use between Oakville and Toronto, at the same rate as those between Toronto and Oakville were sold, namely, \$7.15.

It appeared from the evidence that the ordinary train service between the cities of Toronto and Hamilton on account of the frequency and hours of service made it possible for persons living at Oakville to travel daily to and from their business in Toronto. The ordinary train service between Brampton and Toronto, however, originating a long distance from Toronto, left Brampton for Toronto either too early or too late and vice versa to be of any value for persons desiring to live in Brampton and attend to their business in Toronto, although a few persons might do so.

The general agent for the Grand Trunk Railway Company, Mr. G. T. Bell, gave evidence that the number of persons would likely be so limited as to render transportation at commutation rates unprofitable, as has been found in the state of Massachusetts, the most favourably situated in North America for the development of suburban business. One of the railways that had made commutation rates between Boston and the adjoining stations and operated between sixty and seventy suburban trains a day, found that such train service was an actual loss, by reason of the competition of the electric railways on the highways in the vicinity.

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Judgment, Chief Commissioner Mabey, concurred in by Mr. Commissioner McLean, November 23rd, 1908. 8 Can. Ry. Cas. 42.

The applicant alleges that he is a resident of the town of Brampton, is a law student attending lectures at Osgoode Hall, Toronto, and travels daily, except Saturdays and Sundays, between Brampton and Toronto, the return fare between which places is \$1.10. Brampton being 21.1 miles distant. That between Toronto and Oakville, 21.14 miles from the former city, the railway company issues commutation tickets consisting of 55 coupons good for one trip each way at 13 cents per trip, and also a ticket consisting of ten coupons for \$3.25, or 32.5 cents per trip. The applicant claims that the railway company should be required to issue trip tickets good between Toronto and Brampton upon a similar basis.

The application was supported by counsel for the town and Board of Trade of Brampton, and by counsel for the city of Toronto.

The case was based entirely upon the contention that the action of the railway company was an unjust discrimination against Brampton in favour of Oakville.

Section 341 of the Railway Act provides that nothing in the Act shall be construed to prevent the company from issuing 'mileage, excursion or commutation passenger tickets,' so that the company is within its rights in issuing these reduced fare tickets between Toronto and Oakville.

Section 77 of the Act provides that whenever the company charges persons in one district lower tolls than it charges to other persons in another district 'for the same or similar services,' the burden of showing that such difference in treatment does not amount to an undue preference, or an unjust discrimination, shall lie on the company.

Much evidence was given showing the train facilities between Toronto and the towns in question, and the history of the granting of these tickets between Toronto and Oakville. It appears that many years ago reduced rates existed between Toronto and Brampton, but they were abandoned by the railway company upon the complaint of the Brampton merchants, who contended that it took trade from them to the Toronto merchants. The former it was said went so far as to threaten the company that they would divert their traffic from the Grand Trunk Railway Company if these reduced fares were continued.

At the same time similar reduced fares existed between Oakville and Toronto, and no complaints were made by Oakville merchants against the practice. It would therefore seem that the withdrawal of these privileges from Brampton was not brought by the railway company upon its own initiative, but was solely upon account of the situation above indicated.

It was said also that during the experimental stages of the cheap fares between Toronto and Oakville, some persons, in consequence thereof, had purchased houses there, and at the time the rates were withdrawn from Brampton they were allowed to continue between Toronto and Oakville, otherwise these persons might have to sacrifice their property.

In view of these facts, it is clear that the present situation is not brought about by the choice of the railway company; that it is not solely responsible for either the discontinuance of the Brampton rate or the continuance of the Oakville rate, and if there is unjust discrimination against Brampton and in favour of Oakville, the people of the former place can hardly lay the blame upon the company.

Between Toronto and Oakville about twelve persons in the winter and twenty in the summer avail themselves of these reduced fare tickets. There never was any suburban service, and these passengers ride on the regular trains.

Witnesses from Brampton stated that, in their opinion, reduced fares between Toronto and Brampton would have the effect of increasing real estate values there, and persons now residing in Toronto would go there to live. I have no doubt these reduced fares would prove a great convenience to the persons now residing in Brampton, but the point for decision is whether Brampton is 'unjustly discriminated'

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against in favour of Oakville. The Act recognizes the right of a railway to discriminate between points, it is only unjust discrimination, or undue preference that the company is required to prove itself free from. There is evidence that no one has chosen to buy property in Oakville who would have purchased in Brampton had reduced fares to that town been in effect. There is evidence that no one has removed from Brampton to Oakville consequent upon reduced fares to that town, and there is evidence that, so far as known, no one has removed from Toronto or elsewhere to Oakville who would have chosen Brampton had reduced fares existed to that town. It may be that Oakville has to a small extent profited by these reduced fares; it may be that Brampton would profit to an equal or greater degree if they were in force between Toronto and that town; but the question is whether Oakville has profited at the expense of Brampton, and I am of opinion that such has been shown not to be the case.

Counsel for the town of Brampton asked that these tickets between Toronto and Oakville be prohibited unless the like privileges were granted to Brampton; but I am of opinion that inasmuch as it has been shown that Brampton has not been injured, it would not be fair to the people of Oakville to make such an order.

The application must be refused.

Judgment, in dissent, Mr. Commissioner Mills, December 24, 1908, 8 Can. Ry. Cas, 168:—

The Grand Trunk Railway Company admits that it has been and is now discriminating against the town of Brampton as compared with the town of Oakville in the matter of commutation tickets.

Discrimination in tolls, or rates, against any person, commodity, or locality, is *prima facie* unjust, and should be disallowed by the Board of Railway Commissioners, unless facts are stated and reasons given which are sufficient to prove that, under the special circumstances and conditions of any case in question, the difference in treatment 'does not amount to an undue preference or an unjust discrimination' (Railway Act, section 77).

In every case of a lower toll given to one person, commodity, or locality than is given to another person, commodity, or locality, 'under substantially similar circumstances and conditions,' 'the burden of proving that such lower toll or difference in treatment does not amount to an undue preference or unjust discrimination, shall lie on the company' (Railway Act, section 77).

A great deal of so-called evidence was given in this case, but very little of it bore even remotely upon the point at issue, viz., whether or not the admitted discrimination against Brampton as compared with Oakville in the matter of commutation tickets is just and reasonable. The railway company made an effort to justify the discrimination; but its failure to do so was, in my opinion, most signal and complete. The only witness called for the defence was Mr. G. T. Bell, general passenger and ticket agent of the company.

Mr. Bell went at length into an explanation of the reasons why the company had issued commutation tickets to Brampton and other places for a number of years, and why it had ceased to do so, especially in the case of Brampton.

Mr. M. K. Cowan, counsel for the railway company, stated that the commutation tickets were withdrawn from Brampton, because 'they had not been taken advantage of'; and Mr. Bell testified that they were withdrawn on account of a demand, backed by a threat, from the business men of the town, because so many Brampton people were availing themselves of the commutation tickets to purchase goods in Toronto. Note Mr. Bell's evidence on this point. Question by Mr. Fullerton: 'When you were giving commutation tickets to Brampton, the traffic got so large that it alarmed the Brampton merchants, and they, as you said, put a pistol to your head?' Answer by Mr. Bell: 'It got enough for them to get excited'; but, he adds, 'it was not the class of traffic the rate was put in to cultivate. It was people doing business and living in Brampton, and coming in daily to the city.' Further—question by Mr. Cowan: 'Is it

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possible to bring up a suburban service between here and Brampton by commutation tickets?' Answer by Mr. Bell: 'I cannot believe it possible in the conditions existing.' Thus the company is represented as withdrawing the commutation tickets from Brampton at the direction of the business men of the town because so many people were going 'daily to the city,' and at the same time justifying the withdrawal on the ground that it was then and is now impossible to develop a reasonably profitable suburban traffic between the town and the city,—traffic of the kind which the company desires; but no evidence is given to prove that the admitted discrimination against Brampton is not unjust or unreasonable.

Mr. Bell stated that, after making an experiment with commutation tickets, the company had withdrawn them from certain places, including Brampton, and had decided to continue them at Oakville, because 'some people in Oakville, during this experimental stage, had bought homes in the country, that they might have to sacrifice if the cheap rates were withdrawn'; but farther on, he stated that he could not tell how many people living at Oakville were doing business in Toronto when the company decided to continue the tickets to Oakville and withdraw them from Brampton. He was, he said, 'just stating the general principal'; but he gave no evidence as to how many then had or now have vested interests in Oakville, neither the number of the people nor the extent of their interests; nor any evidence as to the amount of property which might be sacrificed, especially in view of the fact that there is now an electric line between Oakville and Toronto; nor anything which could be called evidence as to whether or not there were and are similar vested interests in Brampton, from which town there is no competing electric line to Toronto.

The population of Brampton is nearly double that of Oakville; the two towns are practically the same distance from Toronto; Mr. Bell's evidence proves that there was a very considerable amount—to the merchants of Brampton, an alarming amount—of daily traffic between Toronto and Brampton when the commutation tickets were withdrawn; and the evidence of other witnesses examined at the hearing, tends to show, without actually proving, that, with commutation tickets such as those sold to the people of Oakville, the suburban traffic on the Grand Trunk Railway between Oakville and Toronto.

I would not at present be disposed to order the issue of any class of tickets which would reduce the revenue of the company; but it was not urged that commutation tickets such as those asked for by Brampton would result in a reduction of revenue. The regular return trip ticket from Brampton to Toronto costs \$1.10; and a 55-trip commutation ticket, good for one month, costs \$7.15. The former is purchased only by people who must, or think they must, travel; and the latter (the cheaper ticket) appeals, not only to those who must do a certain amount of travelling, but also to the much larger number of people who need not travel, but will do so for a consideration—an inducement offered in the way of rate reduction, combined with the possibility of a greater variety of goods and better bargains in buying and selling; but no one can avail himself of the benefit, or supposed benefit, of the cheaper ticket until he has paid the company \$7.15, which is sure income to the company whether the purchaser makes the whole or only a small proportion of the trips within the month covered by the ticket; and so on for each succeeding month. Hence it seems almost certain that the use of commutation tickets such as the above, on ordinary trains, without any additional expense for equipment or service, would pay the company better than the use of the ordinary return-trip ticket; and I think this is true wherever the traffic may be—from surrounding towns and villages to Montreal, Quebec, Toronto, Hamilton, London, Ottawa, Kingston, or any other important business centre. I express no opinion as to whether the issue of commutation tickets, under approved conditions, would benefit the country as a whole, but I am satisfied that it would increase the revenue of the railway companies.

In his evidence regarding the withdrawal of commutation tickets from certain places, Mr. Bell said: 'We took the view that it was right to continue to use commu-

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tation rates where the ordinary train service made it possible for people to live in the country and come into the city and do their business and go back at reasonable rates.' Now, this is precisely the condition of things at Brampton. It was clearly proved at the hearing that the present train service on the Grand Trunk at Brampton is adequate, satisfactory, quite equal to that furnished at Oakville; and the council and Board of Trade of Brampton specifically stated that their application was for commutation tickets to be used on the ordinary trains running between Toronto and Brampton—that and nothing more; so, on Mr. Bell's own evidence, it would appear that Brampton should have commutation tickets.

Hence, to sum up, I would say that, as I understand the case, the facts are as follows:—

(1) Complaint was made to the Board by the applicant and other interested parties, alleging that the Grand Trunk Railway Company was discriminating in tolls, or fares, against the town of Brampton as compared with the town of Oakville.

(2) At the hearing of the complaint, the railway company admitted that it was discriminating against the town of Brampton, but not unjustly so—maintaining that the discrimination complained of and admitted was just, fair and reasonable.

(3) The said railway company completely failed to justify the said discrimination—not having given any evidence which, by the utmost stretch of imagination, could be said to prove that the difference in treatment of the town of Brampton as compared with the town of Oakville, is either just, fair or reasonable.

Therefore, my judgment is that the Board is under obligation to take such action as may be necessary to remove the discrimination, either by ordering the restoration of commutation tickets to the town of Brampton, or by simply directing the railway company to cease and desist from further discrimination against the said town as compared with the town of Oakville in the matter of commutation tickets.

Order dismissing the application issued December 28, 1908.

On February 6, 1909, the applicant applied for a re-hearing. This application also refused on the ground that the Board could not see that any benefit would be gained by opening up the case.

Crowsnest Pass Co. v. Canadian Railway Co.

This was an application by the coal company for an order directing the Canadian Pacific Railway Company to provide a special tariff of tolls to be charged by the railway company to the coal company, under the provisions of the agreement between the British Columbia Southern Railway Company, the Canadian Pacific Railway Company and the Canada Coal Company, Limited (now the Crowsnest Pass Coal Company), bearing date July 30, 1897; and to refund to the applicant all charges in excess of such reduced rates collected by the railway company.

The facts of the case are fully set out in the judgment of the Chief Commissioner.

November 23, 1908.—Chief Commissioner Mabey, 8 Can. Ry. Cas. 33; The applicant asks for an order that the railway company do file a tariff from all points on the property of the applicant company, viz., Michel, Fernie, Coal Creek, Morrissey Junction and Carbonado, and hereafter to all other points at which collieries may be established by the applicant company for all 'plant,' as defined by an agreement of February 19, 1906, which the applicant company may ship over the lines of the respondent, required by the applicant for the construction and operation of their works, such tariff to be not more than six-tenths of the present tariff rates on such materials for carload or less than carload, and to refund to the applicant company all excesses which the respondent has charged the applicant on such plant since May 1, 1907, and generally to file tariffs in compliance with the provisions of paragraph 14 of an agreement of July 30, 1897.

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On the last mentioned date a lengthy and somewhat complicated agreement was entered into, to which the British Columbia Southern Railway Company, the respondent, and the Kootenay Coal Company were parties, the applicant company being formerly the Kootenay Coal Company and admittedly entitled to the benefits of the agreement.

Paragraph 14, under which relief is sought, is as follows:—

'The construction materials required by the coal company to be used in the construction of permanent works, and for timber used in its said mines, and carried by the Pacific company to the coal company's said mines from points on the line of the Pacific company's said railway, the coal company will be charged by the Pacific company for the carriage of all such materials no more than the rate of one cent per ton of 2,000 pounds per mile, such construction material to include rails, fastenings, ties, bridge timber, and lumber required by the coal company, provided that such material may be carried a distance of not less than 100 miles on the Pacific company's railway, and that for all plant shipped by the coal company over the lines of the Pacific company, and required by the coal company for the construction and operation of the said works, the coal company shall be charged by the Pacific company at the rate of not more than six-tenths of the ordinary tariff rates on such materials for carload or for less than carload.'

When this agreement was entered into the works of the coal company had not been established, and the respondent had no line of railway in the locality where it was the intention of the coal company to locate what has since become an industry of very large proportions and in which upwards of \$5,000,000 have been invested.

Nothing turns upon the portion of the above paragraph concerning the carriage of materials at one cent per ton per mile, and it was stated that the regular tariff rate of respondent upon such material was less than the amount agreed upon, and the applicant was charged upon such material at the tariff rate.

On February 19, 1906, an agreement was entered into by the parties to this contest under which the following articles were considered as 'plant' under the above clause 14:—

Asbestos.

Babbit metal.

Brattice cloth.

Bridge on Tipple material and machinery, including conveyors, link belt or other transmission machinery, screens, picking tables, dumps, car hauls and parts thereof.

Castings, iron, steel or brass.

Chain iron or steel.

Electrical machinery and parts, including generators, dynamos, motors, lamps, globes, sockets, wire, insulators and transformers.

Engines, stationary, including boilers, condensers, compressors, box car loaders, air receivers, hoists and parts thereof.

Fire engines and apparatus.

Harness and saddlery.

Horses.

Hose, water and steam.

Iron bolts, nuts, rivets and washers.

Iron, bar and other iron and steel.

Locomotives, steam, air or electric (used in and about the mines.)

Machinery and parts thereof, including blocks, pulleys, shafting, coal and rock drills.

Mine cars and parts, including trucks, irons and wheels.

Machine shop material.

Machine shop machinery and parts thereof.

Machinery packing.

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Mules.

Nails and spikes used in mine structures.

Pipe, lead, vitrified, soil, wood, including fittings, injectors, lubricators and valves.

Pumps and parts thereof.

Rails, fastenings, and switch material used in and about the mines, not over 45 lbs. weight per yard.

Rope, all kinds.

Safety lamps and parts.

Scales and parts.

Tools, including files, saws, coke forks, wheelbarrows, axes, shovels, spades, picks, handles, lanterns, globes, grindstone, wrenches, anvils, bellows, dirt scrapers, machinists' and machine shop tools.

Wire, plain.

Vehicles and parts, including wagons and sleighs.

The agreement of July 30, 1897, was entered into in good faith, and has been carried out by the parties, except as to the matter which gives rise to this application. Many covenants were entered into by the parties to that agreement, and one result of it was that the respondent company obtained the conveyance of a very large area of coal lands, estimated by a witness at the hearing as being worth many millions of dollars, but in the view I take of this application it is neither needful nor desirable that close or accurate attention be paid to the consideration received by the respondent company for entering into the covenants embraced in this agreement, one of which was the one in contest.

The respondent agreed to construct a line of railway; this was done. The applicant agreed that this large area of coal lands should become vested in the railway company, and this covenant was fulfilled. All other covenants contained in the agreement were carried out, except that the railway company says that the provisions of the Railway Act prevent its carrying over its lines plant shipped by the applicant company for the construction and operation of its works at six-tenths of its ordinary tariff rates, and that such an agreement was and is illegal.

It was stated that when the agreement was originally entered into there was no demand in that locality for the class of articles the railway company was agreeing to carry at reduced rates; that there were no industries in existence, and, therefore, no persons against whom the six-tenths clause of the agreement would be a discrimination, and that, therefore, the agreement was valid when entered into. Be this as it may, it, I think, is not necessary to decide whether the agreement was opposed to the Railway Act of 1888, and the only point for decision here is whether the application can succeed in view of the provisions of the Railway Act now in force; and I am of the opinion that the fairer position to leave the parties in is to deal with the situation upon the footing of the present legislation, leaving the applicant to take such other proceedings as it may be advised with respect to the consideration alleged to have been given for the covenant of the railway company for this reduced freight rate, if such course is open to it.

Admitting the jurisdiction of this Board to make an order of the kind asked for, as to which I have grave doubt, although jurisdiction was not disputed by the railway company, I do not think the application can succeed.

It is admitted that at the present time large development has taken place in the portion of British Columbia to which this agreement applies, and there are many persons, firms, and corporations requiring carriage by the railway company of the class of articles and material as defined by the agreement of February 19, 1906, into that district, and into the towns mentioned in the prayer of the petition, there are other coal companies within varying distances, some within one hundred miles of the applicant's coal area and plant, requiring similar articles and material, and the success

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of this application would mean that the applicant would pay but six-tenths of the regular tolls charged to others upon all the various materials mentioned in the agreement of February 19, 1906, and this for all time to come, so that in future years if the railway company reduced its rates upon these articles, or any of them, or were so required by the Board, the tolls to be paid by the applicants would continue to be but six-tenths of such reduced rates, and so discrimination in its favour would continue for all time. I think such a condition is opposed to the spirit as well as the express provisions of the Railway Act.

Mr. Marsh argued with much force that all this was quite permissible, as the applicant had paid an adequate consideration for the favoured treatment, and he cited some English and American cases that go to support that contention. I have gone through most of these, and while some can be distinguished, both as to the facts and the terms of the various statutes upon which they were decided, it is sufficient to say that the same are not binding upon this Board, and no such principle has as yet been introduced into the railway jurisprudence of Canada, and it has been dissented from in other cases both in England and the United States. It is impossible to find as a fact that the consideration passing from the coal company to the railway company was 'adequate.' It is contended this consideration requires the railway company to carry at these reduced tolls for all time. Who can say what the actual sum was that was paid? The area of coal lands so conveyed are undeveloped, and their value is based upon opinion evidence only. Who can say how much material is to be carried by the railway company for the coal company, and what the length of time that such carriage is to continue? Who can say to what extent the tolls upon these articles may be reduced in future years by reason of competition or otherwise? All these are matters upon which reasonably accurate information must be had before it could be said that the coal company had paid to the railway company a consideration that could fairly be said to make up the other four-tenths of the tolls, thereby eliminating the discriminatory feature of the agreement.

In this case no finding could be made that the consideration was 'adequate'; but if the contrary was the case, I would not follow the cases cited for the proposition that under our law any such agreement can be made.

The Railway Act requires that under substantially similar conditions the tolls charged shall be equal to all persons, and at the same rate, whether by weight, mileage, or otherwise, and any reduction or advance either directly or indirectly, is expressly prohibited. No undue or unreasonable preference or advantage can be permitted to any person or company. The object of the legislation is to place every one upon terms of absolute equality, and if agreements were permitted to be entered into for reduction in tolls or for other preferential treatment, the door would be opened wide for the defeat of the Act, and the Board would be called upon to struggle with all sorts of conditions, opinions, and complications in the determination of such cases.

It will not be understood that I am expressing the opinion that such was the object of the present agreement, the conditions existing when the same was entered into were such that the contrary opinion might be arrived at.

I think the application must be refused.

Order, dated 20th November, 1908, dismissing the application, issued accordingly.

Laidlaw Lumber Company v. Grand Trunk Railway Company.

The R. Laidlaw Lumber Company, Limited, of Toronto, applied to the Board for an order directing that the order of the Board No. 4988, dated July 8, 1908 (the general interswitching order), be made retroactive, so as to apply to all cars loaded with lumber received over the line of the Grand Trunk Railway Company from February, 1907, until the interswitching arrangements prescribed by the Board in the said order become effective on the 1st September, 1908; and switched by the Canadian Pacific

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Railway Company to the applicant's siding at Dundas street; and also that the Grand Trunk be required to refund certain switching charges collected by that company prior to the said 1st day of September, 1908.

Counsel for the applicant contended at the hearing that the general interswitching order of July 8, 1908, was declaratory and related back to the time at which the complaint was filed—the original application was filed in April, 1907—that the charges paid by applicant were paid under protest and should be refunded; and that the railway company had no lawful right to collect the tolls at all except under an order of the Board.

Judgment of Mr. Commissioner McLean, concurred in by Chief Commissioner Mabee, December 1, 1908 (8 Can. Ry. Cas., 192):—The decision of the Board in this case must be governed by the decision of the Joint Switching Rates Case (Case No. 182); Canadian Manufacturers' Association v. Canadian Freight Association, 7 Can. Ry. Cas., 302.

While the question of interswitching was dealt with in the London Case; Grand Trunk Ry. Co. v. Canadian Pacific Ry. Co., and city of London, 6 Can. Ry. Cas., 327, the Board was careful to limit itself to the mere facts of the particular case before it. For it refused to deal in a general way with the question of the division of interswitching rates in reference to all the points in Canada where the railways of the two companies concerned connected.

It is admitted in case 182 that it had, for a considerable period, been the practice of the railways in Toronto to absorb the interswitching charges. In the hearing at Toronto it was suggested that the applicant company had furnished antecedent consideration for the continuation of the practice of absorption. This was, however, by the way and not material. In addition, the late Chief Commissioner held that the existence of such practice of absorption for a period of time did not preclude railways changing the practice. Canadian Manufacturers' Association v. Canadian Freight Association, *et supra*, 308.

In the absence of a joint tariff, including the switching charges, it was open to the railway to charge its standard tariff, and in addition thereto switching rates. *Ibid.*, 306, 308.

While a comparatively sudden change from the practice of absorption of the switching charges to a practice of charging the shippers for the switching services, may have been arbitrary, the railway was within its legal right in so acting.

It is alleged that the interswitching tariff of the Grand Trunk, effective March 1, 1907, was simply a tariff as between the railways and not having been properly filed was illegal. While it was advisable that switching tariffs should be filed with the Board, the non-filing of such tariffs was not illegal prior to the issue of the order of July 8, 1908, by the Board; *Ibid.*, 308.

While the Board may require the two railway companies to treat traffic involving interswitching as joint traffic, it was not illegal, in the absence of the filing of a joint tariff, covering switching services, for the railway to charge an additional sum for its switching services which are something distinct from the ordinary work of transportation, although such switching charges might not have been filed. The argument then from the switching tariff, as between the railways themselves, fails.

Under an order of the Board of July 8, 1908, effective September 1, 1908, there were established regulations in regard to the switching charges on traffic, both competitive and non-competitive. The applicant claims that in so far as the interswitching rates charged by the railways were in excess of those established by the order of the Board, there should be a refund. The first portion of the complaint of the applicant, namely, that dealing with the conditions under the tariff, effective March 1, 1907, has already been dealt with. There is no complaint that the Grand Trunk tariff, effective June 5, 1907, was not properly filed, or that it did not properly notify the public. While the subsequent order of the board did reduce the switching rates

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on non-competitive traffic, the Board has no power to make a retroactive alteration in a tariff, which is not contrary to any of the provisions of the Railway Act, so as to apply the alteration to past transactions; *Dominion Concrete Company vs. Canadian Pacific Railway Co.*, 6 Can. Ry. Cas., 514.

It is clear that the law in regard to interswitching had been in an inchoate condition. The order of July 8, 1908, was the outcome of a series of investigations and reports which dates as far back as 1904. In view of this and of the established policy of the Board in regard to refunds, it is impossible to grant any such retroactive order as is asked for, and the complaint of the applicant should, therefore, be dismissed.

Order, dated January 8, 1909, dismissing the application accordingly.

NOTE.—Upon application to the Board leave was granted to appeal to the Supreme Court of Canada on January 28, 1909.

Algoma Central and Hudson Bay Railway Co. v. Grand Trunk Railway Co.

This is an application by the Algoma Central and Hudson Bay Railway Company for an order directing the Grand Trunk Railway Company to make a joint tariff with them.

The steamers of the applicant railway wished to obtain a joint tariff with the Grand Trunk, so as to compete for traffic from points in Ontario reached by the lines of the Grand Trunk and carry such traffic from lake ports by their steamers to ports in Northern Ontario and vice versa, reached by their steamboat and railway. The Grand Trunk Railway Company has now a similar joint tariff arrangement with the Northern Navigation Company.

Judgment, Mr. Commissioner McLean, November 23, 1908, 8 Can. Ry. Cas. 46:— This is an application by the Algoma Central and Hudson Bay Railway Company for an order, under sections 7, 317, 333, 334 and 338 of the Railway Act, for a joint tariff with the Grand Trunk Railway Company.

In the earlier case of the Algoma Central and Hudson Bay Railway Company v. the Grand Trunk Railway Company, in which application was made on behalf of the steamboats of the Algoma Central and Hudson Bay Railway Company to obtain a joint tariff with the Grand Trunk, the application was refused, it being held that in terms of sections 266 and 267 of the Railway Act of 1903 a line of steamships operated by a railway company running to ports reached by the line or lines of another railway did not constitute a continuous route within the meaning of sections 266 and 267 of the Railway Act of 1903.

Algoma Central and Hudson Bay Railway Company v. Grand Trunk Railway Company, 5 Can. Ry. Cas. 196.

The applicant company relied upon section 276 of the Railway Act, 1903, as making the provisions of sections 266 and 267 extend to the traffic mentioned.

In the present application the legality of a continuous route composed by the use of vessel and rail is not involved, since this point is now covered by the Railway Act. In respect of the present application, it is to be noted that the jurisdiction conferred under sections 333 and 334 of the Railway Act in regard to through or joint rates is based on section 25 of the English Railway and Canal Traffic Act of 1888. This section is an expansion of the 'reasonable facilities' clause of the Act of 1854. Under this clause the Court of Common Pleas decided so early as 1857 that in order to grant through booking, public convenience must be made out; *Barret v. Great Northern and Midland Railway Companies*. 1 Ry. & C. Tr. Cas., 38.

The principles involved in the English Act of 1888 are the same as those in the Canadian Act, although the means whereby the through rate may be obtained differ.

Section 25 of the Act of 1888 provides inter alia that the 'facilities' shall include 'the due and reasonable receiving, forwarding and delivery..... at through rates, tolls or fares.'

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Subsection 5. 'If an objection be made to the granting of the rate or to the route the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether . . . the route proposed is a reasonable one . . .'

The policy of the English Railway and Canal Commission is indicated by the following citations:—

Reasonableness of the through rate and the interest of the public are the tests by which the demand must be tried.

Didcot, Newbury and Southampton Railway Company v. London and South-western Railway Company et al, 10 Ry. & C. Tr. Cas. 9, pp. 15, 17.

'It was not the intention of parliament, nor has it been the practice of the court to encourage applications for through rates, the only effect of which would be to transfer traffic from one route to another, or to reduce reasonable rates.'

Ib. per Lord Cobham, 25.

A through rate was refused because not a facility in the interests of the public.

Swindon, Marlborough and Andover Railway Company v. Great Western and London and Southwestern Railway Companies, 4 Ry. & C. Tr. Cas. 349, p. 350.

" . . . however desirable a reduced rate may be in the interests of the public, it is always necessary to see whether there is a commensurate advantage to the railway company who may be forced by the decision of the Commissioners to accept a lower scale of charge than that which it is actually making and to which it is entitled.'

Per Collins, J., in *Plymouth Chamber of Commerce v. Great Western and London and South Western Ry. Cos.*, 9 Ry. and C. Tr., Cas. 72.

" . . . I for one should be inclined, in a case of this sort, to take very seriously into consideration, on the question of public interest, the fact that two competitive routes must tend to make either company more likely to give reasonable concessions to traders.'

Plymouth, Devonport and Southwestern Junction Railway Company v. Great Western Railway Company et al, 10 Ry. & C. Tr. Cas. 68.

While the jurisdiction of the Interstate Commerce Commission of the United States differs in various respects from that of the Canadian Boards, the similarity of some of the problems to be dealt with make the findings of the former body of interest. The Interstate Commerce Commission has passed on the question of joint or through rates in *Loup Creek Colliery v. Virginian and Chesapeake and Ohio Railway Companies*, 12 I.C.C.C. Rep. 471.

In this case Commissioner Clements said: 'Joint rates are only empowered with the manifest intent of giving effect to the general purposes of the Act to regulate commerce by securing reasonable facilities to the public and by preventing unreasonable and unjust rates, facilities and discriminations. P. 477. It has also been held that there should be considered the adequacy of the existing shipping arrangements. Relief to shipping communities, not aid to carriers in obtaining strategic advantages in their contests with one another is what is to be considered.

Chicago and Milwaukee Electric Ry. Co. v. Illinois Central Ry. Co., 13 I.C.C. Rep. 20.

It is well established that the public interest and the question of the reasonableness or otherwise of the existing rate arrangements are the vital points in any application for through rates.

I am of opinion:—

(1) That the Algoma Central has not proved that there is a public interest involved, or

(2) That the existing rate arrangement is unreasonable.

Chief Commissioner MABEE.—I agree.

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November 24, 1908. Mr. Commissioner Mills.—The serious thing to my mind is that, with the present local rates on the Grand Trunk (so much higher than those charged to the Northern Navigation Company) the applicant company is prohibited from carrying its own supplies and its own manufactured goods in its own boats, and it should not be overlooked that the Northern Navigation Company now finds it necessary to increase the number of its boats in order to accommodate the traffic via the Grand Trunk.

Order dismissing application issued December 12, 1908.

Cartier Stop-over Case.

The Transportation Bureau of the Montreal Board of Trade complained against an additional charge of one cent per one hundred pounds imposed by the Canadian Pacific Railway Company at Cartier, Ont., on western grain and grain products, in carloads, consigned to Cartier, 'For orders.'

The matter was heard at the sittings of the Board held in the city of Montreal, at which counsel for the complainants, the railway company, the Dominion Millers' Association, and the Canadian Manufacturers' Association were present, and evidence was offered.

The judgment of the Board was delivered by Assistant Chief Commissioner Scott. Judgment, January 2, 1909:—

The Transportation Bureau of the Montreal Board of Trade complain against the additional charge of one cent per hundred pounds imposed by the Canadian Pacific Railway Company at Cartier, Ontario, on western grain and grain products, in carloads consigned to Cartier, 'for orders,' under supplement No. 13, effective September 1, 1908, to the company's tariff C. R. C. No. E, 678, and still in force by supplement No. 15 to the same tariff.

It has been the custom for many years, for the railway company to permit grain shippers sending cars from Fort William east, to have the cars billed to some point on the line of railway, formerly North Bay (now Cartier) 'for orders.' Upon arriving at the stop-over point the car is then held, subject to further instructions from the consignee as to the point of destination. The privilege is, undoubtedly, of substantial value, as the shipper in this way is enabled to get his grain some 500 miles nearer its destination without having to name it at the time of shipment.

As the through rate is charged for transportation to the final destination, the company only makes the stop-over charge to pay itself for the services rendered at Cartier. If the consignee's instructions have not been received at Cartier prior to the arrival of the train containing his car to be re-directed, it is placed on a siding and is held by the railway company until his instructions are received. The railway company must, of course, break its train and perform a special shunt if the car is to be put on the siding for orders. As this is a substantial service, I think the railway company is entitled to a fair remuneration.

At present the railway company is charging for this additional service one cent per hundred pounds, so that the charge per car may vary from four to eight dollars. I think the minimum \$4 is too high a charge for the service rendered.

I, therefore, am of the opinion that the present tariff should be disallowed, but I would approve of a tariff containing a charge of one dollar per car for each day of twenty-four hours or fraction thereof, for stop-over 'for orders' privileges. In fixing this amount, I have taken as a fair basis of value the dollar charge per car per day which has been established as a fair allowance for the use of a car standing on the track in the 'Canadian Car Service Rules.'

I would not differentiate between the case, where the instructions for reshipment arrive at Cartier before the car, and the case where the car arrived before the instructions, although the service rendered by the railway company in the second case would

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be more than in the first; because, if the question as to which arrived first at Cartier became an important element in determining the charges, there would, undoubtedly, be confusion and friction between the shipper and the railway company. As pointed out by the chief traffic officer of the Board, it would be fair to set off the advantages to the railway company in the first case against the extra service in the second case, and merely allow the standard charge of one dollar per car for twenty-four hours in all cases.

When we had the Cartier stop-over question before us at the Montreal sittings, we were not given any evidence with reference to the Fullerton Lumber Company complaint against the Grand Trunk for stop-over charges at Sarnia tunnel. If the principle involved in the Sarnia case is similar to the Cartier case, then this judgment will also apply to the Sarnia case.

Order, dated the 21st January, 1909, issued, directing that the charge of one cent per 100 pounds imposed by the Canadian Pacific Railway Company at Cartier, Ontario, on western grain and grain products in carloads, consigned to Cartier 'for orders' under supplement No. 13, effective September 1, 1908, to the company's tariff C. R. C. No. E. 678, and still in force by supplement No. 15 to the same tariff; and by the Grand Trunk Railway Company at Sarnia tunnel, or grain and grain products, in carloads, originating in western Canada, destined to points in eastern Canada, and routed via Chicago, Chicago junctions, or Milwaukee to Sarnia tunnel, Ontario, 'for orders,' under supplement No. 3 to the company's tariff C. R. C. No. E. 1101, be disallowed, and a 'stop-over' charge of twenty-five (25) cents per car a day for the first forty-eight hours, and the car service toll thereafter, substituted therefor.

Provision was also made that the order become effective not later than the 15th February, 1909.

Re Complaint Wallaceburg Sugar Company, Limited, of Wallaceburg, Ontario.

This was an application by the Wallaceburg Sugar Company for an order establishing what is generally known as an average demurrage plan. The facts are contained in the judgment of the Assistant Chief Commissioner.

Judgment, Assistant Chief Commissioner Scott, February 4, 1909, concurred by by Chief Commissioner Mabee, 8 Can. Ry. Cas., 332:—

The average demurrage plan, which the applicant seeks to have established, may be described as the giving of credit of free time by a railway company for use of a freight car to a consignee, when the amount of time he takes to unload the car is less than the amount of time allowed to do so by the car service rules; which credit, or spare time, is set off against excess time, for the use of other cars for which the railway company now charge the consignee demurrage.

At the hearing of this case, it was urged by the applicant that as the average system existed in the state of Michigan where some of its competitors were, that it should be adopted in Canada, at least in so far as the sugar refiners were concerned. It was also stated that the Michigan refiners were able to purchase their raw material in Canada, but the Canadian refiners were denied the privilege of purchasing in Michigan; that the American manufacturer was protected by a duty of \$1.77 per hundred pounds, while the protection granted the Canadian manufacturer was but 83 cents, and that therefore some special consideration should be granted the applicant. I cannot see how the fairness or the justice of the system upon which charges for car service in Canada are made, is affected by these conditions which surround the sugar refiners of this country or why, because such conditions exist, a radical change in the system should be made.

Mr. Gordon, the general manager of the Wallaceburg Company, told us that while they can regulate the number of cars of beets ordered per day from the farmers, they cannot control the numbers of cars per day which the railway companies may

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deliver, and that as a result they are sometimes 'swamped.' He said that on an average, they unloaded 22 cars per day during the past year, but have unloaded as many as 90 cars in a day. About 60 per cent of the beets consumed at the refinery are hauled by rail; the haulage of the other 40 per cent being equally divided between water transports and teams.

That the company is capable of handling a fair number of cars within the time allotted by the Canadian car service rules, is quite apparent from the statement submitted with its application, dated November 11, 1908. It shows that during a certain period 1,051 cars were unloaded, and that the average time per car was 31½ hours. Of this number of cars, 855 were not held longer than the 48 hours free time allowed for unloading under car service rules. This proves that, under ordinary circumstances, 48 hours is sufficient time to be allowed for unloading a car of beets.

If special circumstances occur, for which the consignee is not responsible, which prevents him from unloading the cars delivered within the allowed free time, the car service rules provide that demurrage shall not be charged for necessary additional time. For instance, allowance of extra time is made when cars are tendered to the consignee under conditions for which the railway company is responsible in numbers beyond his ascertained reasonable ability to unload, or where the weather is inclement and unsuitable for unloading. These rules are interpreted, not by the railway company interested, but by the Canadian car service bureau, whose manager, Mr. Duval, stated under oath that the rules are interpreted most liberally to the consignee, and that the object of the bureau was to secure the quick release of cars, rather than the collection of demurrage for the railways.

This can be well understood even from the railway point of view, because while the car is held the company can only get \$1 per day for it, whereas the earning capacity of a freight car in service is about three times that amount.

The average system suggested, in my opinion is not justifiable under the contractual relations which exist between the consignor or consignee (as the case may be) and the railway company. The contract or carriage is, that the railway company will carry goods to the point where they are to be delivered to the consignee, who in turn is to unload and release the car with all reasonable despatch. For more certainty and uniformity of practice, rules have been adopted, which say in effect that, 'reasonable despatch' for unloading shall not, in the case under consideration, exceed 48 hours. If a man exceeds this reasonable time in unloading, he is penalized by a charge of \$1 per day for the extra time he may hold the car. Such a provision is in the public interest, because it makes a consignee prompt in releasing cars consigned to him and thus increases the supply of available cars for the shipping public.

In my opinion, the average system might have the effect of making a consignee dilatory about unloading so long as he had free time to his credit, and if he had not free time to his credit the circumstances would be the same as they are under the present rules.

The Canadian Car Service Rules have only been in force since March 1, 1906, and it has taken some time to get the public to understand them. They may be defective in some details and require to be amended, but I think they are founded on sound principles which should not be departed from.

The uncontradicted evidence of Mr. Duval, of the Car Service Bureau, to the effect that cars are being released more quickly by consignees under these rules than was done formerly, proves that the desired result is being accomplished.

The intention is that, under the Car Service Rules, each car shall be dealt with by itself and without reference to the movements of other cars. This insures equal treatment of the smaller shipper or consignee with the larger one. But, if the average plan were in force, I can well see that an injustice would be done the smaller dealer by giving an advantage or preference to the dealer who had a large number of cars to unload. Suppose, a dealer with a large capacity for storage, received fifty

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cars of merchandise, which under the rules he had two days to unload, and unloaded them all the first day. He would then have fifty days to his credit. The next day, he and a small competitor each received one car. The small competitor would have to unload in two days or be penalized, while the other could hold his car for fifty days free time, which might prove to be of very material advantage. It may be said that this is an extreme case. It doubtless is, but it shows how the average demurrage plan might work out unless there were limitations upon it. Mr. Gordon suggested, that the plan might be adopted for those in his line of business only. I do not think it would be advisable at this early date to start making exceptions to the general principles laid down in the Car Service Order, which has not yet been in effect for three years. These principles are, in my opinion sound, and should not be interfered with.

If the applicant cannot get redress under the rules from the Car Service Bureau, he may apply to this Board and his complaint will be heard. I am, therefore, of opinion that this application should be dismissed.

Order, dated February 8, 1909, dismissing application, issued.

The Anchor Elevator and Warehousing Company, Limited, and The Northern Elevator Company, Limited, v. the Canadian Pacific Railway Company.

The Anchor Elevator and Warehousing Company, Limited, and the Northern Elevator Company, Limited, both of Winnipeg, complained against the excessive charges made by the Canadian Pacific Railway Company for switching 'in transitu' grain from the St. Boniface transfer track to the complaints' elevators on the line of the Canadian Pacific Railway Company at Winnipeg and return to the same transfer track for redelivery to the Canadian Northern Railway Company.

The complaint was heard at the sittings of the Board held in Winnipeg, February 6, 1909.

The facts are fully set forth in the judgment of the Chief Commissioner.

Judgment, Chief Commissioner Mabee, March 31, 1909. (9 Can. Ray. Cas. 175.)

The elevators of the applicants are located upon the lines of the Canadian Pacific Railway Company at Winnipeg, and their complaints allege excessive charges made by that company for switching services rendered to the Canadian Northern Railway Company for the movement of cars arriving by the latter line at the St. Boniface transfer track, to the applicants' elevators some three miles distant. The complaints arise with reference to traffic originating at points upon the lines of the Canadian Northern and destined to Fort William or Port Arthur, and which takes the through rate, but is required by applicants for delivery at their elevators in transit upon the stop-over privilege of 1 cent per 100 pounds.

Prior to the general interswitching order of July 5, 1908, the charge made by the Canadian Pacific Railway Company for the services in question was \$5 per car, and since that order the charge has been 1 cent per 100 pounds, in and out, so while the applicants formerly paid \$10 they now pay \$12 upon a 60,000 pound car.

The applicants are under the impression that the Canadian Northern Railway Company should be required to absorb some portion of this toll, and that the order of July 5 applied to the class of service here in question.

When the provisions of that order were being considered, there was no intention that it should apply, except at terminals, and it was never intended to have application to movements required to enable milling in transit upon a through rate. The initial carrier becomes entitled to the extra 1 cent per 100 lbs. above the through rate for the services performed upon its own line, delay in releasing its cars and the like, afterward receiving the grain or product for transmission to its destination at the balance of the through rate. The 1 cent was regarded as a reasonable toll for these privileges to the shippers, and it would not be fair to require the carrier to absorb a portion of a switching service performed by an intermediate carrier that might not only dissipate the 1 cent per 100 lbs. but also the balance of the through rate.

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In the case in hand, the Canadian Northern is required to carry the grain in question, or its product, on to its destination, after being cleaned or ground at Winnipeg, at the balance of the through rate, and it does not seem reasonable that the 1 cent per 100 lbs. it receives for the stop-over privilege it grants should be encroached upon for the purpose of assisting in the payment of a switching charge made by the Canadian Pacific Railway Company for the convenience of the applicants, and rendered necessary by reason of the elevators not being on the lines of the Canadian Northern; at any rate it was not present to the mind of the Board that the order of July 5 should apply to such a situation. Winnipeg is not the terminal point to which the grain in question is shipped. It is an intermediate point only. The terminal or point of destination is the lake port to which the shipment moves upon a through rate.

The interswitching order provides 20 cents per ton as a reasonable toll with \$3 minimum and \$8 maximum. These figures were not established as being applicable to the class of service at an intermediate point in connection with traffic that is not joint, but were fixed at what might as all round be regarded reasonable when applied to all carriers performing switching services in order to make delivery at terminal points, and the Board is of opinion that tolls for services performed by an intermediate carrier to enable the shipper to enjoy stop-over privileges must be determined as reasonable or otherwise quite apart from the provisions of the interswitching order.

The Canadian Pacific Railway was represented by counsel at the hearing, and the Board had the advantage of hearing the views of its representatives. No evidence was given of the cost of the service in question, or otherwise.

The Canadian Pacific tariff of 1904 provides for a charge of \$3 for the service in question. Subsequent tariffs fix the toll at 1 cent per 100 lbs., minimum of \$5, and this latter is the sum that was charged prior to the order of July 5. The provisions of that order not being applicable to this service, the charge should not have been made upon the basis provided for in it, but the company should have continued the tolls exacted before its issue. The \$5 charge may be regarded as reasonable and tariffs should be filed accordingly. Refunds in excess of the \$5 already paid cannot be directed, as strictly speaking the companies charged the tolls called for by their tariff, although why they were not imposed before the making of the interswitching order did not appear.

The Canadian Pacific Railway Company should be added as a party respondent.

An order, directing that on grain carried via Winnipeg at the lawfully published and filed through rate, with the privilege of stopping in transitu for the purpose of manufacture, storage, or treatment, on the tracks of another railway company within its yard limits at Winnipeg, and on which the additional 'stop-over' charge, duly published and filed (if any be made), does not exceed one cent per 100 pounds, the further additional tolls collectable by the company on whose tracks the industry or warehouse is situated, for switching the said grain from the point of interchange at Winnipeg or St. Boniface to the proper unloading tracks, and for reswitching the said grain, or the product thereof, back to the said point of interchange, shall not exceed five dollars (\$5) per car load, regardless of weight, in each direction; the said tolls to become effective at Winnipeg not later than the 17th day of May next, and to be shown in the grain tariff which provide for 'stoppage in transitu' at Winnipeg for the purposes herein indicated, as well as in the tariffs of interswitching tolls,—issued April 20, 1909.

John McKenzie, J. H. Scobell and Rideau Lumber Co. v. Grand Trunk Railway.

John McKenzie, of Ormsby; J. A. Scobell, of Kingston; the Rideau Lumber Company of Ottawa, and others, complained that the freight rates charged by railway companies on telegraph, telephone and trolley poles were unjustly discriminatory with respect to the rates charged on lumber and other forest products.

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Chief Commissioner Mabec, in delivering the judgment of the Board (March 25, 1969), 8 Can. Ry. Cas. 339, said: 'The impression I formed at the hearing was that, although there was some extra risk in the carriage of poles, yet that no reason existed why they could not be safely loaded if proper care were exercised. I think an order should issue embodying the recommendations of the Chief Traffic Officer.'

Mr. Hardwell, Chief Traffic Officer of the Board, reported as follows:

'Prior to the issue of the order of the Board dated July 30, 1904, *Scobell v. Kingston and Pembroke Railway Company*, telegraph poles were not rated in the Canadian freight classification, but were specified for carriage by special contract only. By that order wooden telegraph, telephone and trolley poles were added to the list of commodities which are included in the Canadian classification under the heading of "lumber." The classification now reads as follows:—

Logs, masts, piles, spars, telegraph, telephone and trolley poles, timber and transverses. L.C.L. 4 C.L. 10

Under the classification, the minimum carload weight for 10th class traffic is 30,000 lbs. per car of not over 36 feet 6 inches inside or platform length, and that is the minimum charged for short poles on single cars; on long poles Rule 1 (c) provides that long poles requiring two or more cars for carriage are charged the 10th class minimum of 30,000 lbs. for the first car, and two-thirds of the classification minimum, or 20,000 lbs., for each additional car over which the poles extend.

That order did not mean that the companies were to charge 10th class rates and none other on poles, any more than on lumber and other forest products which are generally carried at commodity rates; the intention was to abolish the special contract privilege as tending to variation and discrimination. Whether or not, as a result of that order, taken in connection with the remark of the Chief Commissioner in the judgment that "the second ground of complaint that the rates upon telegraph poles were excessive in that they were higher than the rates on ordinary lumber, the Board was not satisfied that this matter of complaint had been fully and sufficiently argued," the companies, in the following November, issued new tariffs on forest products, in which the ordinary 10th class rates, under the Canadian classification, were substituted for the special mileage scale which had previously been in force. That old mileage scale, applicable, by the way, between the stations of one company only, made the rates on telegraph, telephone and trolley poles 20 per cent higher than the rates on common lumber; also, under that scale, the minimum weights for long poles requiring two or more cars were 30,000 lbs. on the first car, or the same as for single cars, and 20,000 lbs. for each additional car, so that the carload minimum weights then were practically the same as they are now.'

It was stated at the hearing, by Superintendent Donaldson, of the Grand Trunk, that on his division (the old Canada Atlantic and O.A. & P.S.) the pole shipments numbered probably 1,500 cars a year, and that about 85 per cent were short poles carried on single cars. It also appeared from the evidence that the risks of transportation which the companies considered entitled them to higher rates on poles than on lumber pertained to the long poles rather than to the short ones. These risks, however, seemed to be attributable very largely to the lack of inspection and the non-observance of the rules of the Master Car Builders' Association governing the loading of lumber, logs, poles, &c., on open cars, known as the "M.C.B." rules, No. 30 of which reads as follows:—

'All material carried on two or three cars must always be examined by a competent inspector before the cars are moved from the loading point. If an inspector is not stationed at the loading point, the agent must give notice to the proper authority when the cars are loaded, so that proper inspection may be arranged for. The object of such inspection is to see that these regulations have been complied with.'

The M.C.B. rules give detailed instructions as to the loading of logs, poles, &c., the size of stakes, tie wires, &c., and are accompanied by explanatory diagrams, and

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if these rules are strictly complied with, there would seem to be no reason why telegraph poles, under ordinary conditions, should not be safely carried. Similar risks are incurred with respect to improperly staked lumber, and the evidence seems to me to prove that the difficulties complained of should be preventable by rigid inspection rather than by the imposition of higher rates. Whether the rate be low or high, the risk exists—possibly the higher the rate the greater the risk, as shippers would probably be inclined to greater carelessness on the theory that they were paying the companies well for any extra duties thrown upon them.

It was also stated, as a reason for the higher rates, that empty cars had often to be hauled considerable distances for loads, whereas box cars may be immediately available for lumber shipments; but this same empty movement of flat cars is frequently necessary in the case of lumber and machinery shipments, racked cars for bark, flats for logs or square timber, &c.

As regards the practice elsewhere; the Canadian Pacific carries both long and short poles on its main and branch lines in British Columbia, at the same rate as charged for lumber, but the minimum carload weights are not so favourable as in the east. These minimums are somewhat variable, but in most cases the long poles are carried at a minimum of 30,000 pounds for each car used. It is true that the rates in British Columbia are greater than in eastern Canada, but so also is the cost of haulage.

As the companies do not file their local tariffs with this Commission, I have not the means of knowing what the local rates of the companies operating in the United States may be, except in the case of the Michigan Central, whose local commodity tariff on lumber and forest products, G. F. D. No. 7576, effective July 7, 1908, I have before me. This tariff applies between all stations on the Mackinaw division and branches north of Bay City, Mich., and it applies on telegraph and telephone poles, as well as on lumber and the other forest products which are usually carried at lumber rates. The minimum weight is in accordance with the official classification, which provides a minimum of 34,000 pounds for single cars, and only 50 per cent (or 17,000 pounds) for each additional car. The rates also are lower than charged by the same company between its stations in Canada, and by the other Canadian companies. I have examined a number of joint tariffs on forest products between two or more companies within the United States, and these cover telegraph poles also.

In my opinion, taking into consideration the fact that lumber rates are applied on short timber, logs, ties, fence posts, and the like; the evidence and the practice elsewhere; the rates charged on short poles in eastern Canada are unjustly discriminatory with respect to the rates charged on other forest products loaded on single cars, and that the companies in eastern Canada should be required to carry wooden telegraph, telephone, electric light, and trolley poles, on single cars, at the same local and joint rates as lumber, when not subject to uncontrollable competition; or, in the words of the order of the Board in the case of Gillies Bros. and the Rideau Lumber Co., dated August 1, 1906, that the tolls 'shall not be higher than the tolls provided in the special (local and joint) tariffs of the companies to apply on common lumber; except that it shall not be obligatory on the companies to charge thereon such tolls as may be made necessary by the competition of carriers not subject to the Railway Act when such competitive tolls are lower than the lowest special tariff of tolls between the same points on common lumber issued under ordinary transportation and trade conditions.' I think, also, that the phraseology of that order should apply with respect to shipments of poles from points in Canada to points in the United States between which joint rail rates on general traffic are, or may be, made by the Canadian railway companies with the concurrence of their United States connections.

As regards poles too long for a single car and requiring more than one car for their carriage, I believe the companies are reasonably entitled to higher rates than for single cars, and I would recommend that the scale used by the companies themselves

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prior to November, 1904, be prescribed, namely, 20 per cent higher than for single car, the minimum weights to be in accordance with rule 1 (c) of the Canadian classification, and in the computation of the additional rate the fractions to be disposed of as follows, namely: .25 and under, nil; .26 to .75= $\frac{1}{4}$ cent; .76 and over=one cent; the rates in no case to exceed the 10th class rates between the same points.

Order, dated March 25, based upon the traffic officer's report, issued accordingly.

Winnipeg Jobbers' Association v. Canadian Pacific, Canadian Northern and Grand Trunk Pacific Railway Companies.—Winnipeg Rate Case.

The Winnipeg Jobbers' Association applied to the Board for an order directing the Canadian Pacific Railway Company to restore the traders' tariffs previously existing in western Canada, from Winnipeg, as a distributing centre (giving the Winnipeg traders the benefit of the balance of the through rate on reshipments) instead of the new tariffs recently put in force by the railway company.

Upon a complaint by the Portage la Prairie board of trade, the Board had held that this system of traders' tariffs was illegal, as being unjust discrimination and undue preference in favour of particular persons and between different localities, and the charging of higher tolls for a shorter than for a longer distance where the shorter distance is included in the longer.

The railway company complying with the view taken by the Board, had substituted the tariffs complained of by the applicants.

The application was heard at the sittings of the Board held in Winnipeg on the 16th and 17th September, 1908.

The facts are fully stated in the judgments of the Board:—

September 17, 1908.—Chief Commissioner Mabee, 8 Can. Ry. Cas., 175:—The main branch of this case has been very fully and completely presented, and so far as the legal questions involved are concerned, I propose to deal with them now.

This matter grows out of a complaint made by the Portage la Prairie board of trade. I do not regard it as being a continuation of that matter, but I should have thought that perhaps it had better be regarded as consequent upon the order made by the board upon the complaint of the Portage la Prairie board of trade. That matter was fully considered by the Board, and the late Chief Commissioner gave his reasons in writing. It is said no formal order issued, but the railway company has attempted to comply with the view taken by the Board. The Railway Act of 1903 brought about this complaint. I do not think it has been stated how long the then existing system had been on foot, but that is immaterial. For the purpose, I presume, of establishing Winnipeg as a distributing centre, or at least assisting in that the railway companies—first the Canadian Pacific Railway Company—adopted this system of giving to Winnipeg traders or wholesalers, the benefit of the balance of the through rate on reshipments. That was confined to certain persons, who, I presume, were selected by the company or by some other body, and trade was carried on under these traders' tariffs.

A complaint was brought against this system by the Portage la Prairie board of trade, and the contention was raised that this system was discrimination as against localities and discrimination as between individuals. The Board, in its judgment, pronounced that system to be illegal, and ordered the railway company—or the railway company consented—I think the late Chief Commissioner says—to file tariffs with the view of eliminating the objectionable feature. Those tariffs having been filed—the Winnipeg interests being hard hit by them, it is contended—applied to the Board to withhold its consent to their going into effect. Those tariffs may be excessive; I do not know whether they are or not, because there is no evidence given

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upon the point. It is said by counsel for the applicants that the Board is bound to find that they are excessive, because they have the effect of increasing the rates in existence under the tariffs that were held to be illegal, because discriminatory.

Now, I do not in any way disapprove of the proposition advanced by Mr. Henderson—and in support of which he cited cases—that where a rate that has been in effect with the approval of a railway company, and apparently to their satisfaction, is raised by another tariff, it is incumbent, other things being equal, upon the railway company to show why the rate should be increased. The cases cited support that principle, and it appeals to one as being reasonable. A toll has been established upon which it is presumed a reasonable profit arose to the carrier, and if, without any change in the conditions, the carrier makes up his mind that he will increase the toll, it is only reasonable the carrier should show why the toll should be increased. But that is not the present case. In this case this traffic was being carried under tariffs that gave the Winnipeg dealer upon reshipment to certain persons the balance of the through rate. That was declared to be, upon this complaint illegal, because it was preferential and discriminatory in favour of Winnipeg. I do not set that tariff out of mind for the purposes of comparison, simply because it was declared to be illegal. I set it out of mind, because it never was—so far as reshipments are concerned—regarded by the parties, either the railway company or the shippers, as a local tariff. It was not a local tariff; it was the balance of the through rate, and I am not aware of any case in which a court has looked to the balance of a through rate as being a reasonable sum to establish as a local rate. We have got no evidence, it seems to me, which would enable us to presume one way or the other with reference to that old rate.

In addition to that—and increasing the difficulties of the position contended for by counsel for the applicants—during the same period that the Winnipeg merchant enjoyed the benefit of the balance of the through rate, there were side by side with that, local tariffs in existence, and which people not favoured under the traders' tariffs were compelled to use. It is said now that the new tariffs which have been filed do not raise the rates that were in existence under the old local tariffs and which the general public were compelled to pay. That being so, it seems to me it is idle to argue that the Board, under the authorities that have been cited, is compelled to adopt the old balances of through rates as reasonable local rates under the new tariffs. Mr. Henderson practically admits that there is no other evidence than the presumption that should be drawn from the circumstances he relies on. Taking the view I do, it is quite clear then that there is nothing in this case upon which the Board can put its finger and say: This is an excessive rate. It may be excessive. I do not know as to that; there is no evidence that it is, and the Board cannot act without evidence.

Then, two other branches of the case present themselves, and one is with reference to the granting of commodity rates out of Winnipeg. I understand it is argued to-day or was yesterday for the first time, that that should be granted. It may have been contended for earlier, but I do not know how that is. Mr. Chrysler takes the position that the Board cannot order the railway company to grant every locality and every place a commodity rate. As to that, I am rather inclined to the view that his contention is right. I do not finally dispose of it at the moment, but it seems to me off-hand that it is the railway companies that have the right to frame their tariff. The Board does not frame the tariff, and the public does not frame the tariff; the statute gives the railway company the right to frame its tariffs. And while the statute gives certain control over the tolls to the Board of Railway Commissioners, it does not by any means put the Board in the position of being able to in all cases control the carrier in the fixing of his tolls. I am inclined to the view that the carrier has the right under the statute to name the localities as to which commodity rates may be granted, but as to that, I do not express any conclusive opinion. The matter presenting itself in this way, I only indicate in the meantime what my unconsidered view of it is, so

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that the question as to the granting of a commodity rate may be regarded as not being disposed of, but reserved for consideration along with the second branch of this application, and which I now shall briefly advert to.

Mr. Hardwell suggested yesterday that the Ontario town tariffs might be taken as a basis for local tariffs applicable to the western provinces. I do not know to what extent he had previously had an opportunity of considering that question; I do not know yet whether these could be taken as the basis and made applicable to this part of the Dominion. I do not understand that the railway companies would have any serious objection to that being done, provided their revenue was not seriously disturbed. I do not know whether, in order to get reasonable local tariffs throughout the western provinces, these Ontario tariffs could be built upon, and standardized as Mr. Hardwell suggests, eliminating the features I mentioned which Mr. MacInnes referred to, and taking into consideration the other surrounding conditions, trade conditions of every kind, population, geographical situation and so on. That is a matter that will require very much more careful consideration than it has been possible for my brother commissioners or myself to give it since the proposition was first raised by Mr. Hardwell. It is a matter that should also be fully and very carefully considered by the railway traffic experts, and by the business interests that would be affected by the disturbance of a system that has grown up in the western provinces, and which is different, as was stated, from the system that has been applicable to the other sections of the Dominion. As to whether that should or should not be done, I do not now decide. It is a matter, as I have said, that will require very careful consideration and perhaps discussion.

In the meantime, the conclusion is that it is impossible to grant this application, and by any sort of order bring about the system that was ordered by the Board to be discontinued upon the application of the Portage la Prairie Board of Trade.

There is no evidence upon which we can reduce these tariffs that have been filed, to the same sums that were paid by the favoured few under the old traders' tariff. There is no evidence upon which we can reduce, by $12\frac{1}{2}$ per cent, as was requested, or by any other percentage, the tolls for the carriage of this traffic.

The case, therefore, in my view, resolves itself into two questions: First, as to whether it is possible under the statute to compel commodity rates or commodity tariffs; and second, whether it would benefit the public to standardize the Ontario tariffs and endeavour to make them applicable to western tariffs.

The main application must fail.

These other two questions have grown out of it.

We think it wise that the situation should be dealt with now that it has arisen. We think we should consider whether it is advisable to adopt the suggestions made by Mr. Hardwell, and further consider whether the Board has jurisdiction to order commodity rates in the manner asked for. It is only right and proper that the Board should observe the facts that have been given in evidence, and deal with the situation, although it was not covered by the original application. So that, while we are refusing the application as framed, we are reserving the two points, viz.: The advisability or the possibility of applying the Ontario town tariffs, standardized and made suitable to the differing conditions, and the possibility of granting the request made for the commodity rates.

October 24, 1907. Hon. A. C. Killam, Chief Commissioner, 8 Can. Ry. Cas. 180— This is a complaint of the Board of Trade of the town of Portage la Prairie, in Manitoba, against a series of special freight tariffs of the Canadian Pacific Railway Company, expressed as 'To be used on reshipments by Winnipeg wholesale houses only to traders doing business at or tributary to stations specified herein.' The grounds of objection to the tariffs are that these tariffs are illegal inasmuch as they are discriminatory as between different shippers and different consignees, and also as between different communities.

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Evidence was taken in the matter before me alone at Winnipeg, under a special order of the Board. Notice of the taking of this evidence was given to the Winnipeg Board of Trade, that those representing the commercial interests of Winnipeg affected by or interested in the tariffs might have an opportunity of taking part in the proceedings and of taking any action which they might desire in support of the tariffs objected to; and the president, the secretary, and two other members of the Winnipeg Board of Trade attended.

The evidence given before me showed that no persons, outside of those whose names appeared upon a certain list of wholesale merchants doing business in Winnipeg, could ship goods under the rates mentioned in these tariffs, and that the company had no tariff giving similar rates to other persons or classes, and that the rates, also, were limited to shipments, to consignees whose names appeared in certain lists of traders furnished to the railway company's agents at the different points respectively. The evidence further showed that shipments made by or to others than the parties named in these respective lists were governed generally by the rates in the ordinary mileage tariffs of the company, which were considerably higher than the rates in the tariffs objected to. The evidence further showed that there was no tariff of a similar description for shipments by similar classes of persons from Portage la Prairie, but that such shipments were governed by the ordinary mileage tariffs under which the rates were higher for proportionate distances. It further showed that, in some instances, the rates from Winnipeg under the tariffs objected to, were lower than those charged from Portage la Prairie to points westward therefrom, although the goods were carried over the same routes from Portage la Prairie in addition to the distance from Winnipeg to Portage la Prairie. The evidence also showed that, in many cases, the rates from Winnipeg to Portage la Prairie under these tariffs were much less for the same classes of goods than those from Portage la Prairie to Winnipeg.

Opportunity was given, both to the railway company and the Winnipeg Board of Trade, to discuss the subject and to offer any remarks or arguments which they might desire to make in regard to the complaint.

While counsel for the railway company did, to some extent, contend that the tariffs were justified by the conditions existing, when they were originally framed, no real argument in support of them was made. The gentlemen of the Board of Trade were informed that if, after further consideration and taking legal advice, they desired to offer anything in support of the tariffs, it would be considered by the Board. They did state that, as these tariffs had been established for a considerable length of time and business had been transacted under them, it would be unfair and would cause too much disturbance in business to have them suddenly abrogated. All this occurred some two months ago, and no communication has since been received from the Winnipeg Board of Trade.

While refusing at the time to express an opinion upon the subject, I warned the parties that it would be advisable that they should prepare for a change. Ample opportunity has now been given for the purpose, and I have been informed by the Assistant Freight Traffic Manager of the railroad company that the company is prepared to substitute by the 15th November next new tariffs which would not be open to the objections put forward by this complaint.

In my opinion the objections to the tariffs are well founded; they appear to me to be contrary to the provisions of the Railway Act prohibiting undue or unreasonable preferences in favour of particular persons and unjust discriminations between different localities and the charging of higher tolls for a shorter than for a longer distance where the shorter distance is included in the longer, and which require that all tolls shall always, under substantially similar circumstances and conditions in respect of traffic of the same description, &c., be charged equally to all persons.

In my opinion the parties interested should be notified that the Board considers that these tariffs are contrary to the provisions of the Railway Act and that they

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will be disallowed, and that the railway company should, not later than the 15th day of November next, file and put in force other tariffs in lieu of those complained of.

I think it advisable that the Board should not, in this instance, determine the rates to be substituted, as much delay would be involved in making the necessary inquiries; but that it will be sufficient to disallow these tariffs, allowing the company to substitute new ones, which may be made the subject of complaint if found to be unjust to any interests.

Winnipeg Jobbers' Association v. Canadian Pacific Railway Company.—Kootenay Rate Case.

The Winnipeg Jobbers' Association applied to the Board for an order directing the railway company to restore the former Winnipeg westbound rates to the Kootenay district.

After the judgment of the Board in the Vancouver eastbound v. Winnipeg westbound rate case, reported in the third report of the Board at pages 133 et seq., the Canadian Pacific Railway Company removed the discrimination there found to exist between localities, by raising the Winnipeg westbound rates.

The Winnipeg Jobbers' Association applied for an order directing the railway company to restore the former Winnipeg westbound rates to the Kootenay district. The application was heard at Winnipeg on the 16th and 17th September, 1908.

Held, that the application must fail, there being no evidence that these rates were excessive.

Judgment, Chief Commissioner Mabey, September 17, 1908:—8 Can. Ry. Cas. 173. We do not think, Mr. Chrysler, that it is necessary to trouble you in connection with the Kootenay branch of this matter.

Mr. Henderson has very properly admitted that in view of the finding of the Board in connection with the Vancouver eastbound rates v. Winnipeg westbound rates, he is not able to further press the complaint.

It is quite apparent that in that proceeding, in which the Winnipeg interests were represented, an attempt was made to attack the then existing Vancouver-Nelson rates, and evidence was given by the railway companies justifying the 85 cent toll. It seems to have been carefully investigated, as the judgment shows, later on by Mr. Hardwell, who reported that the figures submitted by the railway company were substantially accurate and correct.

The late Chief Commissioner, in a very carefully considered opinion, deals with the various features, including the one I have adverted to, and the conclusion was arrived at that it was impossible for the Board to declare that the eastern tolls out of Vancouver were excessive. The determination of the Board further in that matter was, that the complaint of the Vancouver interests against the western rates out of Winnipeg was well founded; discrimination was found to exist, and the railway company was ordered to file a tariff that would remove that discrimination.

Now, Mr. Henderson very properly and candidly admits, if he is not able to successfully attack the westbound toll out of Manitoba, that the only way the railway company could comply with the order of the Board and remove the discrimination that was found to exist was by raising the westbound rates from Winnipeg. That the railway company has done, and no evidence has been given that these rates are excessive. I do not say whether they are or are not excessive, but I do say that no evidence has been adduced to that effect.

Counsel has practically admitted that he cannot hope to succeed upon the application as it stands, but he has asked to have it further enlarged to be dealt with later on. My brother Commissioners and I are both of the opinion that the better way to dispose of the matter is to now dismiss the application, giving leave to the applicant, if he so chooses, to file a new application in accordance with the rules of

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procedure of the Board, in which he must fully detail and set forth whatever grievances he thinks he has and that the Board has power to remedy. The former application was merely a verbal one, taken up I have no doubt in Winnipeg by the late Chief Commissioner as a matter of convenience. With the leave to the applicant, which I have referred to, this present application may be considered refused.

Malkin & Sons v. Grand Trunk Railway Company.

Malkin & Sons complained that higher rates were charged by the Grand Trunk Railway Company from a point on a branch line for a shorter distance than from points on the main line to the same point, thereby constituting unjust discrimination between different localities within the provisions of section 315 of the Railway Act.

The application was heard at Toronto on May 20, 1908. The facts are fully set forth in the judgment of Mr. Commissioner McLean, concurred in by the Chief Commissioner Mabey, Mr. Commissioner Mills dissenting, holding that unjust discrimination had been shown.

Judgment, Mr. Commissioner McLean, November 28, 1908 (8 Can. Ry. Cas., 183):—In this case it was complained that the Grand Trunk charged higher rates on tan bark from Sprucedale than from Burk's Falls and Sundridge; these three stations all being on the lines of the Grand Trunk Railway. Sprucedale is eleven miles west of Scotia Junction on what was formerly known as the Canada Atlantic Railway, a line which is now controlled by the Grand Trunk by stock ownership. Burk's Falls and Sundridge are 10 and 21 miles, respectively, north of Scotia Junction on the main line of the Grand Trunk Railway.

The essential points of the complaint may be indicated by a consideration of the distances and rates involved in the shipments to one of the points consuming tan bark:—

To Berlin.	Miles.	Special commodity rates.
From Burk's Falls... ..	201	8 cents.
“ Sundridge... ..	212	8 “
“ Sprucedale... ..	202	10 “

It is alleged that this is proof of an unjust discrimination against Sprucedale.

It was shown in evidence that from all points within a zone extending from Kearney, a short distance east of Scotia Junction to Depot Harbour, a distance of some 58 miles, there was a group rate on tan bark. For example, all points within this group paid 10 cents per 100 pounds in carload shipments to Berlin. The applicant Malkin, stated in evidence (vol. 62, p. 3734) that what he especially objected to was this grouping. Counsel for the applicant also urged that Sprucedale should be given a lower rate than the further distance points included in the same group.

It was contended by the respondents that while the Grand Trunk Railway controls and operates what was formerly the Canada Atlantic Railway, the latter company still retains its legal identity, and that substantially the same relations should exist between the two companies at present, in respect of the division of the through rates, as existed before the unification of control and management took place. This is not material as an answer to an allegation of discrimination.

It is established that there has been a material reduction of rates. When the Canada Atlantic was operated as a separate railway, the rate on tan bark from Sprucedale to Berlin, to take one of the points affected, was 11 cents; when the Grand Trunk obtained control of this line in 1905 the rate was reduced to 10 cents, and the rate was further reduced on March 7, 1908, to 9 cents, a reduction of approximately 18 per cent, in the period in question.

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The central point in the complaint is one of group rates complicated by consideration of main line and branch line traffic. Group rates of necessity result in a certain amount of discrimination; so long as the discrimination is not undue, such rates are not unlawful. *Desel-Boettcher Co. v. Kansas City Southern Railway Company*, 12 I. C. Rep., p. 222.

So far as the complaint regarding the Kearney-Depot Harbour group is concerned, this was met by the issue of a special freight tariff (Sup. 13 to C. R. C. No. E-517) which broke up this group and gave Sprucedale the advantage of its proximity to the junction point.

While under existing tariff conditions the Sprucedale rate is 9 cents, and the Burk's Falls rate 8 cents, the difference in rate is not conclusive as regards the question of discrimination.

Counsel for the applicant holds (see evidence, vol. 62, p. 3730) that this is a discrimination which is forbidden under subsection 4, of section 315, which states that: 'No toll shall be charged which unjustly discriminates between different localities.'

In the application of section 415, subsections 1 and 5 afford certain tests which are to be used by the Board as criteria of discrimination. These are inequality of tolls in respect of any or all of the following conditions:—

1. Under substantially similar circumstances and conditions.
2. In respect of all traffic of the same description.
3. In respect of all traffic of the same description carried on or upon the like kind of cars.
4. Passing over the same portion of the line of railway.
5. Like description of goods carried under substantially similar circumstances and conditions in the same direction, over the same line, a greater charge made for a shorter than for a longer distance, the shorter being included in the longer.

The tests which are applicable to the facts of the case are the first and fourth.

(1) Substantially similar circumstances and conditions.

The traffic concerned originates on a branch line. The Board has recognized that branch line freight rates may be on a higher basis than main line freight rates to shorter distance points, so long as the rates are not unreasonably or disproportionately higher. *Almonte Knitting Company v. Canadian Pacific and Michigan Central Railway Companies*. 3 Can. Ry. Cas. 441.

Inferentially it is justifiable to apply the same principle in respect of traffic originating on a branch line. This establishes an initial dissimilarity of circumstances.

While not holding that the entire cost of the upkeep of a particular branch line, division or other portion of a railway must in every case come from the receipts of such portion, it must at the same time be recognized that each ton or passenger moving over such portion must, if the traffic is light, contribute a proportionately higher amount per unit to such upkeep than in the case of a portion of line where the traffic density is greater. The lighter traffic on what was known as the Canada Atlantic is a material fact.

(2) Traffic passing over the same portion of the line of railway.

It is apparent that in so far as the passing of the commodities over the 'same portion' of line is concerned there is an initial dissimilarity of circumstances which does not disappear until the junction point is reached.

It does not appear that the difference in rates now existing as between Sprucedale and Burk's Falls brings the complaint within the provisions of section 315 of the Railway Act, and judgment should therefore be given against the applicant.

Chief Commissioner Mabey.—I agree.

December 7, 1908.—Mr. Commissioner Mills (dissenting).—Having to dissent from the judgment in this case, I wish to state briefly my reasons for doing so.

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Regarding branch lines of railway, it is alleged in this judgment that, unless in exceptional instances, 'it must be recognized that each ton or passenger moving over such portion (that is, over a branch line) must, if the traffic is light, contribute a proportionately higher amount per unit to such upkeep (the upkeep of the branch line) than in the case of a portion of the line where the traffic density is greater, 'each ton or passenger must contribute a proportionately higher amount'; and then, on this ground alone, it is held not to be unjust, in other words, that it is fair and reasonable, to charge a considerably higher rate on traffic which originates on a branch line, than is charged on the like traffic when it originates on a main line, in the same locality, and is carried the same distance—even a greater distance—to the same destination, the former being carried 16-17 and the latter 17-17 of the total distance (202 miles) over the main line.

Now, referring to the above dictum regarding branch line traffic, I might ask whether it is right to assume that branch lines which, owing to lighter traffic or other causes, show less direct profit than the main line (perhaps not much over the cost of operation and maintenance) do not make a reasonable return to the company, and conclude that as a consequence the traffic (every ton of freight and every passenger) moving on such branch line 'must' be made to pay higher rates than are paid for like traffic on the main line? Is it not a fact that the capital invested in branch lines is generally much less per mile than that invested in the main line—less expensive bridges, comparatively inferior roadbeds with sharper curves made to save expense, lighter rails, less expensive stations, lighter engines and less valuable passenger cars? Is it not also a fact that the service on branch lines is nearly always less frequent, less regular and worth less than that on the main line? Branch lines figured alone may not make a very good showing, but they may nevertheless pay well as feeders to the main line; and without such feeders the profits on many main lines would be greatly reduced.

If this doctrine regarding the traffic on branch lines is sound, it follows that the Board ought to rescind or vary the order of the late Chief Commissioner fixing the passenger fares to be charged by our railway companies at three cents per mile on all lines, including every branch line, operated in any part of the Dominion between Calgary and the Atlantic ocean; and the said companies should at once be authorized to issue higher and different tariffs, both freight and passenger, for many, perhaps most, of their branch lines, varying them from time to time, so that they shall be inversely proportional to the traffic on each branch compared with that on the main line.

The main line of the Grand Trunk Railway runs from Montreal to Toronto and on west to Sarnia; and many branches run off from it in different directions, among which are a portion of what was known as the Canada Atlantic, extending from Coteau on the main line, a distance of 339 miles, to Depot Harbour, and the branch running from Toronto, north a distance of 227 miles, to North Bay. The latter branch crosses the former at Scotia Junction; and, in the immediate vicinity of the said junction, there are three places from which tan bark is shipped to, say, Berlin, Ont., namely, Sprucedale, on the Canada Atlantic branch 202 miles from Berlin; Burk's Falls, on the North Bay branch 201 miles from Berlin; and Sundridge, on the North Bay branch 212 miles from Berlin—all in a group; and, in making rates under the group system, the fundamental point is that all shippers in the same group shall, regardless of distances, be charged the same rate to common markets, in order that, so far as freight charges are concerned, no one in the group will be at a disadvantage in the markets to which they all ship.

In this case, the rate on tan bark from Sprucedale to Berlin is 9 cents per 100 pounds, while that from Burk's Falls and from Sundridge to Berlin is 8 cents per 100 pounds; that is, a shipper at Sprucedale is charged $12\frac{1}{2}$ per cent more on a carload of tan bark shipped to Berlin, than a shipper at Burk's Falls is charged on a carload of

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the same commodity, shipped by the same railway, the same distance, to the same destination, and $12\frac{1}{2}$ per cent more than is charged on a like shipment from Sundridge, ten miles farther, to the same destination. This is an undoubted discrimination against Sprucedale; and in the judgment of my colleagues it is admitted to be a discrimination; but it is held not to be unjust—in other words, it is justified and approved—simply and solely on the ground that traffic from Sprucedale originates on a branch line and is carried eleven miles out of 202 miles on a branch line, while traffic from Burk's Falls and from Sundridge originates on and is carried all the way on a so-called main line (the North Bay branch); therefore, it is held to be just, fair, and reasonable to charge Sprucedale $12\frac{1}{2}$ per cent more for a given service than is charged to Burk's Falls and Sundridge for the same or a greater service—in spite of the practice of the company at Allandale, on the same line, in dealing with traffic from the Collingwood and Penetanguishene branches, and at a large number of other junction points where there is no extra charge on traffic from branch lines, even when the said traffic is carried for long distances over branch lines.

Speaking for myself, I can only say, in the language of the Chief Traffic Officer of the Board, that 'I am unable to see any exceptional conditions to justify a higher rate from Sprucedale' than from Burk's Falls and Sundridge. Hence I cannot concur in the judgment of Mr. Commissioner McLean, which is based upon what appears to me to be a strained interpretation of two phrases in section 315 of the Railway Act. The judgment was a surprise to me; and, if followed in subsequent judgments, it will undoubtedly benefit persons who live near main lines of railway, and result in serious injury to those who have to travel and do most of their shipping on branch lines.

I say nothing about the reasonableness or unreasonableness of the rates in themselves—9 cents per 100 pounds, from one of the places in question, and 8 cents per 100 pounds from the other two places; 8 cents or $8\frac{1}{2}$ cents might be or might not be a fair and reasonable rate from the three places. The evidence on the point is very meagre. Hence I do not feel warranted in expressing an opinion; but my judgment is that a discrimination of $12\frac{1}{2}$ per cent against Sprucedale—because it has to ship eleven miles out 202 miles, or a little less than one-seventeenth of the total distance to destination, over a branch line—is unjust; and that the railway company should be required to cease and desist from charging persons who ship from Sprucedale a higher rate than it charges persons who ship from Burk's Falls or Sundridge, the same or a greater distance, to the same destination.

The Grand Trunk Railway Company v. United Counties Railway Company.

The facts of the case are as follows:—

Counsel for the Grand Trunk claimed that the increased cost to that company of carrying on its business occasioned by the crossing should be borne by the junior company under the agreement. The contention of counsel on behalf of the United Counties Railway Company was that the Grand Trunk was the senior road only so far as the track existing at the time of the order of the Railway Committee of the Privy Council of March 21, 1893, was concerned; that, although the Grand Trunk, under its charter, had the right to build additional tracks, yet if another company is incorporated in the meantime and actually builds its railway and crosses the only track then in existence, and then some years later the senior company constructs additional tracks, the company which was the junior road at the time of the first order was made for a crossing, should not have to bear the expense of protecting the additional tracks laid by the Grand Trunk.

April 22, 1908, Mabey, Chief Commissioner, 7 Can. Ry. Cas 294:—In view of the statutes that have been cited (and indeed Senator Beique admits it), the Grand Trunk at the point in question is the senior road. The facts quite justify the admission. The original incorporation of the ancestor of the Grand Trunk at the point in question

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in 1845, the agreement of 1853, and the Act incorporating the original road with the Grand Trunk in December, 1854, the introduction in that Act of the Railway Clauses Consolidation Act, and the section of the Railway Act referred to giving the railway company the right to lay one or more tracks, the road having been constructed, all make the Grand Trunk the senior road, at any rate down to the date of the agreement of 15th April, 1893, with the United Counties Railway (which was the predecessor of the Quebec, Montreal and Southern Railway) so that there is no manner of doubt that as to the single track the Grand Trunk was the senior road.

I am not able to follow the argument of Senator Beique that there can be seniority as to one of these tracks and not as to the other, and the ruling is that the Grand Trunk is senior not only to the track already constructed, but as to the intended double track.

Canadian Northern Railway Company v. Canadian Pacific Railway Company.

This was an application by the Canadian Northern Railway Company for an order for the crossing by its Hartney-Regina branch over the Wolseley-Reston branch of the Canadian Pacific Railway Company, asking at the same time that the order of the Board approving the location of the latter branch, be varied. The only question argued was as to which of these branches was the senior road.

The plans of the Hartney-Regina branch of the Canadian Northern Railway were approved by the Board on the 17th June, 1904, and registered on July 26, 1904. The plans of the Wolseley-Reston branch of the Canadian Pacific Railway Company were approved by the Minister of Railways and Canals on February 24, 1905, and registered on April 5, 1905. The approval of the Board was granted on July 18, 1905, and the plans again registered on October 3, 1905.

The contention of the Canadian Northern was that the prior approval and registration of plans of the Hartney-Regina branch made the road senior to the Wolseley-Reston branch of the Canadian Pacific Railway Company. Construction work upon these two branches commenced at about the same time, but the Wolseley-Reston branch at the point of crossing in question was built first and that road was in operation when the construction work on the Hartney-Regina branch reached the crossing. The Canadian Pacific had some years prior to the sanction of the plans of the Wolseley-Reston branch, obtained a patent covering the land at the point of crossing, and that company was the owner of the land at the point in question long prior to the approval of the plans.

May 14, 1908, Mabee, Chief Commissioner, 7 Can. Ry. Cas. 297:—I do not think that the mere approval by the Board of the plans filed with it necessarily gives seniority to the plans first approved. Section 159 of the Railway Act defines the effect of approval or sanction, which it is said shall be deemed to be merely approval of the location of the railway and the grades and curves thereof, as shown in the plan, profile, and book of reference, but not to have relieved the company from otherwise complying with the Act; and in granting sanction or approval, the Board is bound by the general location as approved by the Minister of Railways, and may only sanction a deviation of not more than one mile from any point on the general location as approved by the Minister.

It seems to me that the railway that is in actual occupation, with an existing work upon the ground, with the ownership of the fee at the point of crossing, has much stronger claims to seniority than the railway which has merely obtained a prior sanction of its plans; and I have no hesitation in holding that the Wolseley-Reston branch of the Canadian Pacific Railway Company is, at the point in question, senior to the Hartney-Regina branch of the Canadian Northern Railway Company; and the terms and conditions of the crossing order must be based upon such seniority.

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Grand Trunk Pacific Railway Company v. Canadian Pacific Railway Company.

This was an application by the Grand Trunk Pacific Railway Company, under section 227 of the Railway Act, for leave to cross the track of the Canadian Pacific Railway Company (Pheasant Hills branch), in township 29, in the province of Saskatchewan.

The applicant company claimed to be senior to the Canadian Pacific Railway Company at the point of crossing. The crossing had been constructed and paid for by the applicant company and the point in issue was as to the cost of construction and maintenance.

The evidence disclosed that the Canadian Pacific Railway was prior to the applicant company both in the sanction and location of its line of railway, as well as construction work upon the ground, but after this application was made to the Board, the applicant company obtained from the Crown a patent covering the land at the crossing, and the contention of counsel on its behalf was that by reason of owning this land it was in a position to cross the line of the Canadian Pacific Railway free from burden.

Judgment, May 14, 1908, Mabee, Chief Commissioner (7 Can. Ry. Cas. 299):— I do not think this to be the fact. 44 Vict., chap. 1, contains the contract entered into between the government and the Canadian Pacific Railway Company. Paragraph 14 of the contract gives the company authority to construct, equip, maintain, and work branch lines of railway from any point or points along their main line to any point or points within the territory of the Dominion, and before commencing any such branch, provision is made for deposit of a map or plan of such branch in the Department of Railways. The government was bound under the contract to grant to the company the lands required for the roadbed of such branches, and for the stations, station grounds, buildings, workshops, yards, and other appurtenances requisite for the efficient construction and working of such branches, in so far as such lands were vested in the government. Paragraph 10 of the contract made provision that the government should grant to the company the lands required for the roadbed of the railway and its stations; this, I presume, applying to the main line. Then, in pursuance of this contract, the branch in question was constructed; thus, in my view, entitling the railway company to obtain a grant of the lands required for the roadbed.

By 3 Edward VII., chap. 7, being the Act respecting the construction of the National Transcontinental Railway, the agreement forming the schedule to that Act is ratified and declared binding upon His Majesty; and under section 46 of the contract the government of Canada binds itself to procure to be granted to the Grand Trunk Pacific Railway Company, in so far as the same are vested in His Majesty in right of the Dominion of Canada, such lands as may be required for the right of way of the western division, and for all stations, station grounds, &c.

At the time this application was made, the Grand Trunk Pacific Railway Company had not acquired title to the land at the point in question; but since the application a grant has been obtained pursuant to the provisions of the contract above referred to.

It does not appear why the grant was made to the Grand Trunk Pacific Railway Company in the face of the statutory contract entered into under the provision of 44 Vic.; and I am of the opinion that the Canadian Pacific Railway Company, having constructed by virtue of the authority of that statute, became entitled to a grant covering its roadbed, and that, for the purposes of the application of the Railway Act and the disposition of the question of seniority as between these railway companies at the point in question, the production of the Crown grant by the Grand Trunk Pacific Railway Company should not be allowed to have the effect of displacing or

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curtailing the rights which the Canadian Pacific Railway Company obtained under prior legislation and acted upon by placing its railway upon the ground.

I am clearly of the opinion that the Canadian Pacific Railway Company is senior to the Grand Trunk Pacific Railway Company at the point in question, and the order must contain terms based upon that company being so senior.

New v. Toronto, Hamilton and Buffalo Railway Company.

This was an application by Henry New, of Hamilton, under sections 252 and 253 of the Railway Act, for an order directing the Toronto, Hamilton and Buffalo Railway Company to provide and construct a suitable crossing where its railway abuts the land of the applicant in the township of Barton, county of Wentworth.

By the construction of the T. H. & B. Railway, applicant was deprived of access to a travelled road except by passing over the land of his sons and crossing a number of railway tracks, and the object of the application was to obtain access to the said road by a crossing over the railway, for the purpose of more conveniently carrying on his manufacturing business, but not in any way for farm purposes or as a farm crossing.

Judgment, Chief Commissioner Mabee, October 30, 1908, 8 Can. Ry. Cas. 50:—I think under the circumstances of this case and the land-locked position of the applicant's lands, it is not unreasonable to allow him a crossing of the nature of a farm crossing over the lands of the railway company. The company objected that the crossing, not being intended for farm purposes, could not be ordered by the Board. I do not think the Act should be construed in such a narrow manner. So to construe it would produce great injustice and hardship in many cases. The parties did not produce the conveyances affecting the lands of the applicant or of his predecessors in title, or of the railway company's right of way at the point in question; and we are in the dark as to terms and conditions therein, if any.

There seems to be no greater danger, indeed less, in allowing the applicant to cross at or near where he desires, than to require him to obtain access to Trolley street over the lands of his sons, if he were able so to do, and as to which there is no evidence.

I do not think it needful to refer to the cases cited by counsel, as I have come to the conclusion that the Board may as a matter of discretion grant the crossing asked for.

It may be that this crossing can be located at a point less inconvenient to the railway company than that demanded by the applicant, and the Board's engineer will inspect the premises and locate the crossing upon the ground.

All expense connected with the construction of the crossing will be borne by the applicant.

The company asks that it should be indemnified by the applicant for all damage they may be put to by reason of accidents at this proposed crossing. I do not think this reasonable, as damages might arise through the grossest kind of negligence of its employees, and it would be manifestly unfair that such should be visited upon the applicant. When the engineer inspects the premises, he may make inquiries as to the hours that the line of railway is mostly used, and if he finds it possible to limit the hours that the applicant may use the crossing, in order that possibility of accidents may be minimized, he may report to the Board his conclusions, and before the order issues, those (if any) will receive due consideration. The engineer will also report as to such protection, if any, as he deems necessary.

Order, directing the railway company, at the expense of the applicant, to provide and construct at once a crossing in the nature of a farm crossing at a point about ninety feet east of the frog on the site of the present crossing, as shown on the plan filed; and directing the applicant to put up and maintain a sign at the gates leading

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to the Hamilton Pressed Brick Company's Works, warning people to look out for trains and to close the gates, issued December 2, 1908.

Re the Application of Charles Slade for a farm crossing over the Canda Southern Railway, on the Southwest Quarter of the south half of lot 12, concession 8, township of Raleigh, Kent county, Ontario.

Charles Slade, of North Buxton, Ontario, applied to the Board, under sections 252 and 253 of the Railway Act, for an order directing the Michigan Central Railroad Company to provide and construct a suitable farm crossing on the south half of lot 12, concession 8, township of Raleigh.

At the hearing the railroad company consented to provide a suitable crossing upon the boundary line between Charles and Fred Slade's farms, in the said township of Raleigh.

The facts of the case are fully set forth in the dissenting judgment of Mr. Commissioner Mills.

The judgment of Chief Commissioner Mabey, October 21, 1908, concurred in by Mr. Commissioner McLean, was to the effect that the offer of the railway company was fair, and that the crossing should be put on the boundary line.

Judgment, Mr. Commissioner Mills, dissenting, November 5, 1908:—

It is not long since the applicant got possession of the farm in question. It came to him by will, being half a 100-acre farm formerly owned and worked by his father Robert Slade, from whom the railway company purchased its right of way. Since Charles Slade obtained possession of his fifty acres, he has been using a crossing on his brother Fred's farm, which lies immediately east; but Charles Slade's buildings are near the side of his farm farthest distant from his brother's farm, and therefore the use of the crossing on his brother's farm is a great inconvenience to him and a constant annoyance to his brother.

Under the above circumstances, Charles Slade applied to the railway company for a crossing over the railway on his own farm; and the railway company refused to grant his application, on the ground that he had no legal right to a crossing. Hence his application to the Board of Railway Commissioners.

At the hearing the railway company again alleged that Charles Slade had no legal right to a crossing, but admitted that he needed one, and offered to remove the crossing on Fred. Slade's farm to the boundary line between Charles and Fred. Slade's farms, and let Charles Slade use it in common with his brother. This Charles Slade strongly objected to on the ground of very great inconvenience to him; but the opinion of the Chief Commissioner, then expressed, was that Charles Slade's farm, being only a part of his late father's farm, he, Charles Slade, had no legal right to a crossing offered by the railway company; the company to put in and maintain the gates and planking and Charles Slade to do and maintain the grading necessary for the said crossing.

Now, in reference to this opinion I may say that, after careful reading and study of sections 252 and 253 of the Railway Act, I have to confess my inability to see that a farmer's legal right to a crossing over a railway is to be determined, or is in any way affected, by the manner in which he obtains his land, whether by grant from the Crown, by purchase from a private vendor, by inheritance, or by the will of a testator.

The language of section 252 seems to me very plain and specific, that 'every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes.' Also section 253, 'The Board may, upon the application of any landowner, order the company to provide and construct a suitable farm crossing across the railway, wherever in any case the Board deems it necessary for the proper enjoyment of his land on either side of the railway, and safe in the public interest'; and subsection 2, 'The Board may

order and direct how, when and where, and by whom, and upon what terms and conditions such farm crossing shall be constructed and maintained.'

Neither in these sections nor anywhere else in the Act do I find a word authorizing the Board to say that an applicant has no legal right to a farm crossing, simply because his land came under the provisions of his father's will. The land in question undoubtedly is a farm, owned and worked as a farm, and cannot be so worked, unless the owner gets a crossing over the railway at some point; for, as I stated above, 29 acres of his farm are north of the railway, while his buildings, orchard, farm lane and 19 acres are south of the railway, the buildings being on the side furthest distant from his brother Fred's farm, on which there is a satisfactory crossing.

It is admitted on all hands that the applicant requires a crossing over the railway; and it is provided in section 252 of the Railway Act not only that such a crossing shall be provided, but that it shall be 'convenient and proper for the crossing of the railway for farm purposes.' How, then, can it be maintained that he (Charles Slade) has no legal right to a farm crossing over the railway, and on what ground is it ordered that he must either do without a crossing or accept the extremely inconvenient crossing offered by the railway company?

The distance to be travelled by Charles Slade in going to work on, or in driving live stock to the 29 acres lying north of the railway is as follows:—

	Feet.
From the barn to highway on the south.. . . .	462
Along highway, east, to boundary line between farms.. .	744
From highway, north, to crossing provided for in order.. .	462
Distance across right of way of railway company.. . . .	100
	<hr/>
	1,768
Length of each trip in return.. . . .	1,768
	<hr/>
	3,536

This, in a word, means a trip of about two-thirds of a mile every time he goes to and from work on the north side of the railway, and two-thirds of a mile every time cattle are driven to and from the north 29 acres of the farm, for pasture, water, milking, or any other purpose—which certainly will result in great inconvenience, constant annoyance and a serious loss of time.

In view of these facts, I cannot avoid the conclusion that by forcing the applicant, Charles Slade, to accept a farm crossing over the Michigan Central Railway, away at one side of his farm,—at the side farthest distant from its orchard and farm buildings,—on the boundary line between his farm and that of his brother Fred Slade, or be completely cut off from access to the northern 29 acres of his 48-acre farm, the Board is doing Charles Slade an irreparable injury,—putting him to great and permanent inconvenience, requiring him to do a large amount of unnecessary travelling from day to day, and compelling him constantly to incur very serious loss of time—all without benefit to the railway company, the travelling public or any individual; for, by the order referred to, the railway company will have to remove the present right-angle crossing which is on Fred Slade's farm, and construct a more expensive and dangerous acute-angle crossing, slanting over its tracks on the boundary line between Fred and Charles Slade's farms, furnishing a pair of separate but contiguous gates for each farm; Fred Slade will have to make a short lane from his present crossing to the boundary line between his farm and that of his brother Charles; and the risk to the railway company, to trainmen, and to persons who use the railway will, in my opinion, be greater than it would have been if Fred. Slade's right-angle crossing had been left undisturbed in its present position and Charles Slade had been given a right-angle crossing where he wants it,—in line with his farm lane, running from the highway past his buildings, north, towards the railway.

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I have stated that, in my opinion, the order in question involves, not only greater expense to the railway company, but greater risk of accidents, with the consequent results to all concerned, than the granting of Charles Slade's application would have involved; and my reasons for making the statement are as follows:—

1st. Precisely the same number of persons, animals and vehicles will pass over the railway tracks at the joint crossing as would have passed over them if Fred. Slade's crossing had been left intact, and a separate, convenient crossing had been given to the applicant, Charles Slade. The traffic is neither increased nor diminished by the substitution of a joint crossing for two separate crossings, one on each farm.

2nd. Inasmuch as, under the order, the brothers will each have a pair of gates under his own control at the joint crossing,—the same as they would have had at two separate crossings,—the danger which may arise from gates being left open, will be precisely the same as, no more and on less than, it would have been with separate crossings, one on each farm.

3rd. It is generally conceded that there is greater risk to life and property when a given amount of traffic is concentrated and carried over a railway by a crossing on a single street or highway, than when it is distributed and carried over on two or more streets or highways, a smaller amount on each. The same must be true in the case of farm crossings—an increase in danger from concentration of traffic at a single crossing.

4th. An acute-angle crossing, slanting over the tracks of a railway, such as that ordered in this case, is admittedly much more dangerous than a right-angle crossing, such as Fred. Slade now uses, and as should, I think, have been given to the applicant, Charles Slade.

Dissent and grounds therefor in brief:—

Therefore, I have most respectfully to dissent from the judgment of the Chief Commissioner, concurred in by Mr. Commissioner McLean.

First, on the ground that the order provides, not for a 'suitable' but for a very *inconvenient* crossing,—and hence is, I think, clearly at variance with the letter and intention of section 252 of the Railway Act, which says, without qualification, that 'Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes,' not any kind of crossings which the Board may think proper to order, but crossings which are convenient and proper for the crossing of the railway for farm purposes.' The Board may direct 'where.....such farm crossing shall be constructed and maintained' (Section 253); but notice again that the language is 'such farm crossing' that is, the kind of farm crossing provided for in the preceding section—a farm crossing 'convenient and proper for the crossing of the railway for farm purposes.' The crossing provided by the order in question will, I presume, be 'proper' as regards the matter of construction, although it will be an acute-angle crossing, constructed obliquely over the railway; but, on account of its location, it will be strikingly and distressingly *inconvenient*, and therefore, I maintain, at variance with the Act as quoted above.

Second, on the ground that, without benefiting any party or interest, the said order will, not only deprive the applicant, Charles Slade, of the proper enjoyment of his farm on the north side of the railway, but will do some injury to Fred. Slade, and will result in more expense to the railway company and greater danger to trainmen and to the travelling public than would have resulted from simply granting Charles Slade's application for a crossing, say a right-angle crossing, on his farm.

My judgment is that Charles Slade's application for a farm crossing, say a right-angle crossing, over the railway at the point indicated by him (693 feet from the boundary line of his brother's farm, measured along the right of way of the railway company) should be granted; the railway company to put in and maintain the grading required for a suitable crossing.

Order, dated 14th January, 1909, directing that the crossing be constructed on the boundary line between the farms of Charles and Fred. Slade, as aforesaid; and requir-

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ing that the crossing be provided with separate gates for entrance into each of the fifty acres, issued in accordance with the judgment of the Chief Commissioner and Mr. Commissioner McLean.

City of Victoria v. Esquimalt and Nanaimo Railway Company.

This was an application by the city for an order to review, rescind, or vary order of the Board dated October 8, 1907, and for an order, under section 238 of the Railway Act, directing the railway company to submit to the Board a plan and profile of the railway at the place or point where its main line of railway crosses the land known as the old Esquimalt road, in Victoria west; and also for an order, under section 237 of the Act, for leave to construct a level crossing for vehicular traffic, and to remove existing fences across the said highway.

The application was heard at the sittings of the Board held in Victoria, February 27, 1909.

The facts are contained in the judgment of the Chief Commisisoner.

Judgment, Chief Commissioner Mabee, March 16, 1909:—

The old Esquimalt road was for many years prior to the construction of the Esquimalt and Nanaimo Railway a public highway leading from the city of Victoria to Esquimalt. At or prior to the construction of the railway, a new highway was established leading to Esquimalt, but the old road was never closed and has ever since remained and still is a public highway, and is a public street within the limits of the city of Victoria.

In the construction of the railway the grade fell much below the street level, on one side four or five feet; no public crossing was provided and fences were erected along the sides of the right of way, thus closing the street for vehicular traffic. This was done without any apparent authority, but was acquiesced in by the city authorities and the public.

On October 4, 1907, the railway company applied for leave to maintain, in its then condition, a stile for foot passengers only at this crossing, and the city of Victoria applied for a public crossing. The Board, by an order dated October 8, 1907, granted the application of the railway company and refused that of the city.

On January 30, 1909, the city applied to review, rescind, or vary the order of October 8, 1907, and the case was heard at Victoria on February 27, 1909. The Board had an opportunity of viewing the locality in question and of hearing the views of the engineers for the city and the railway company, and of counsel representing the city, as well as the railway company and certain landowners who were affected by the street being closed.

Conditions have greatly changed of late years in that portion of the city, and the reasonable convenience of the public clearly requires the street to be opened for public travel. The railway company has had the convenience of having the street closed at this point for many years; but this closing can only be regarded as temporary and subject at any time to alteration at the will of the city council, if that course seemed reasonable. The crossing will by no means be a safe one for the public, but it is their right to have it opened. The city could have required that when the railway was constructed, and such right still exists. As a term, however, of opening the crossing, the city should require all the standing trees on the lot adjacent to the crossing to be cut down, so a clear view may be had of the railway towards the city. It should also make arrangements to prevent any building or buildings being erected on the vacant lot across the street from that upon which the trees stand, so the view will not be obstructed and trains coming around the curve be prevented from being seen. The railway company must do the necessary grading and planking for the crossing; the city will have to maintain the crossing when constructed.

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Upon the city furnishing evidence by affidavit that the trees have been removed, and that binding arrangements have been made that buildings will not be erected on the vacant lot, the formal order may issue.

Mr. Commissioner McLean, March 26, 1909:—

I agree, but am of the opinion that the following should be added: 'Near the southeast corner of the proposed crossing there are, as shown on the plan on file with the Board, two buildings near the right of way, the one which is most remote being within 100 feet of the right of way. This obstructs the view of those driving up the old Esquimalt road (shown on the plan as Wilson street), towards the proposed crossing. The railway company should, at its own expense, arrange to have these two buildings moved to such a distance from the right of way as will, in the opinion of an engineer of the Board, give a reasonably good view of the curved portion of the track to those who are approaching it from the city.'

Stiles v. Canadian Pacific Railway Company.

The applicant applied to the Board, under sections 252 and 253 of the Railway Act, for an order directing the Canadian Pacific Railway Company, to construct and provide a suitable farm crossing. It was alleged that the present undercrossing was too small to enable the applicant to carry on properly his farming operations, and he applied to have it enlarged.

The application was heard at Toronto on January 27, 1909.

Counsel for the applicant at the hearing contended that the applicant was entitled to ordinary facilities to enable him to farm his land; that the only passage across the railway was an undercrossing which was too narrow; that, apart from any crossing he might be entitled to under a contract with the railway company, the Board had a right under the Act to direct the company to provide and construct a proper and suitable crossing.

Judgment, Chief Commissioner Mabee, January 27, 1909, 8 Can. Ry. Cas. 190:—If we were dealing with this matter under the plan Mr. Moss has just referred to, and giving a crossing where one had not previously been in existence, it might be reasonable to provide a crossing 14 feet in width, and possibly 14 feet in height, if the cost of constructing such a subway was not prohibitive, bearing in mind the value of the property. But that is not this case. We have a case here of a railway company, in 1889, entering into a contract to construct and maintain an undercrossing. That crossing was completed 12 feet by 12 feet, and the man used it for eighteen years, and so far as the railway company was concerned no complaints were made to it that it was not perfectly satisfactory. It would be entirely unreasonable, it seems to me, to disturb the order of things which were apparently satisfactory to the man with whom the contract was made. Under the circumstances we think the contract was fulfilled by the construction of the crossing, and the contract as fulfilled in that way was satisfactory to the then owner of the property, and the present owner of course can take no higher position than his predecessor in title.

Under these circumstances we think the application must be refused, but an order may go requiring the railway company to enlarge this to a 12-foot crossing, by 12 feet in height, and to continue the maintenance of it as the contract calls for.

Essex Terminal Railway Company v. Windsor, Essex and Lake Shore Rapid Railway Company.

On August 12, 1905, the township of Sandwich West passed a by-law authorizing the W. E. &c., Ry. Co. to construct its line along a named highway in the municipality, but the powers and privileges conferred were not to take effect unless a formal acceptance thereof should be filed within thirty days from the passing of the by-law. Such

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acceptance was filed on September 12, 1905. This was too late, and on July 20, 1907, the council of Sandwich West and that of Sandwich East respectively passed by-laws containing the necessary authority.

In April, 1906, the location of the line of the E. T. Ry. Co., was approved by the Board. In June, 1906, the Board made an order allowing the W. E. &c., Ry. Co. to cross the line of the Canadian Pacific Railway. In March, 1907, another order respecting said crossing was made and also an order approving the location of the W. E. Ry. Co., the municipal consent being obtained three months later.

The E. T. Ry. Co. applied to the Board to have the orders of June, 1906, and March, 1907, rescinded and for an order requiring the W. E. Ry. Co. to remove its track from the highway at the point where the applicant proposed to cross it to discontinue its construction at such point or, in the alternative for an order allowing it to cross the line of the W. E. Ry. Co. on said highway. The applicants claimed to be the senior road and that the W. E. Ry. Co. had never obtained the requisite authority for locating its line. On a case stated to the Supreme Court by the Board.

Held, 7 Can. Ry. Cas. 109 and 8 Can. Ry. Cas. 1, that the Board had power to refuse to set aside the said orders; that the by-laws passed in July, 1907, were sufficient to legalize the construction of the W. E. Ry. Co.'s line on said highway; and that the Board can now lawfully authorize the latter company to maintain and operate its railway thereon.

Held, further, that leave of the Board is necessary to enable the E. T. Ry. Co. to lay its tracks across the railway of the W. E. Ry. Co., on said highway.

Held also, that the Board, in exercise of its discretion has power by order to authorize the maintenance and operation of the W. E. Ry. Co., along said highway and to give leave to the E. T. Ry. Co. to cross it and the line of the Canadian Pacific Railway near the present crossing and to apportion the cost of maintaining such crossing equally between the two companies instead of imposing two-thirds thereof upon the E. T. Ry. Co., as was done by a former order not acted upon; and to order that if the E. T. Ry. Co. finds it necessary in its own interest to have the points of crossing differently placed, it should bear the expense of removing the line of the W. E. Ry. Co., to the new point of crossing.

Order, dated March 26, 1909, issued accordingly.

1. Refusing to rescind orders of June, 1906, and March, 1907.

2. Authorizing the Windsor, Essex and Lake Shore Rapid Railway Company to maintain and operate its railway along the Gravel Road, in the township of Sandwich West; and

3. Directing that the cost of maintaining and operating the crossing of the Canadian Pacific Railway Company's tracks and the crossing of the tracks of the Windsor, Essex and Lake Shore Rapid Railway Company by the Essex Terminal Railway Company, and of the protective appliances to be installed at the said crossings, 'be divided equally between the Windsor, Essex and Lake Shore Rapid Railway Company and the applicant company; Provided, however, that if the applicant company shall find it necessary, in its own interests, to have the point of crossing or crossings, differently placed, it shall bear the expense of removing the railway of the Windsor, Essex and Lake Shore Railway Company to the new point of crossing.'

Re Lord's Day Act and Grand Trunk Railway Company.

This was an application by the Grand Trunk Railway Company for an order, under subsection (x) of section 12 of the Lord's Day Act, R.S.C., chap. 153, permitting it to do certain work on the Lord's Day in order to prevent undue delay to traffic.

The facts of the case are fully set out in the judgment of the Chief Commissioner. Judgment, Chief Commissioner Mabey, October 17, 1908 (8 Can. Ry. Cas. 23):—

This application is made by the Grand Trunk Railway Company under subsection (x) of section 12 of the Act respecting the Lord's Day.

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Section 12 provides that notwithstanding the other provisions of the Act, any person may on the Lord's Day do any work of necessity or mercy. Then in following clauses a variety of matters are declared to be included in the expression 'work of necessity or mercy.'

Subsection (*h*) is as follows: 'The continuance to their destination of trains and vessels in transit when the Lord's Day begins.'

(*k*) 'Work before six o'clock in the forenoon and after eight in the afternoon of yard crews in handling cars in railway yards.'

(*l*) 'loading or unloading before 7 o'clock in the morning or after 8 o'clock in the afternoon any grain, coal or ore carrying vessel, after the 15th September.'

(*x*) 'Any work which the Board of Railway Commissioners for Canada, having regard to the object of this Act, and with the object of preventing undue delay deems necessary in connection with the freight traffic of any railway.'

What the railway company asks is as follows:—

'The Grand Trunk Railway Company of Canada hereby applies to the Board for an order under subsection (*x*) of section 3 of the Lord's Day Act, 6 Edward VII., chap. 27, as follows:—

'1. Permitting the said company, by its servants, workmen, and agents, in order to prevent undue delay to traffic, to do on any Sunday, in the province of Ontario, work incidental to the continuance to their destination of cars in transit at the beginning of each Sunday, notwithstanding that the said cars forming part of the train so in transit may not have a common destination, but may require to be switched, shunted, or otherwise dealt with for the purpose of being sent on to their several destinations.

'2. Permitting the said company to do, in the province of Ontario, such work upon any Sunday as may be necessary for the purpose of furnishing to shippers of live stock, a continuous railway service without which such persons would be unduly hampered and delayed in their said business.

'3. Permitting the said company to do, in the province of Ontario, such work upon any Sunday as may be necessary for the purpose of furnishing to and from lake ports, a continuous railway service for carrying grain from elevators and vessels, and without which service such traffic would be unduly delayed.

'4. Permitting, in the province of Ontario, the unloading of grain from vessels at lake ports, and the loading of grain into cars at such ports, and without which service such traffic would be unduly delayed.'

This whole subject received most careful consideration by parliament, and the Act, as it stands, is the result of compromises made by those holding divergent views upon the subject-matter of the legislation, and any encroachment upon its prohibitions can be permitted only for the gravest and plainest reasons.

The Board's jurisdiction arises only in connection with the movement of freight traffic; and as to that it is limited to such classes of work as it deems necessary to permit with the object of preventing 'undue delay'; and in exercising jurisdiction, the Board is bound to have regard to the object of the Act. Of course the object of the Act is well known, and with its general intention of providing for a day of rest in every week all must be in entire sympathy; and in dealing with the application, this must be kept steadily in view.

Parliament dealt very exhaustively with this vexed subject, and the statute was the result of much discussion and contention a very large section of the community looks with a jealous eye upon the Act, and will regard with much concern any order that may be made enlarging its provisions and extending exceptions to its prohibitions. However, in the view I take, the railway companies cannot, under the Act, or any order this Board may make be left in any way masters of the situation, and may be called upon to justify any movement of freight that the order, I think them entitled

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to, may cover. In other words, the burden will be upon them to satisfy the court that the particular movement was necessary to prevent 'undue delay,' which in each individual case must be a question for the tribunal before which a prosecution may be launched. So, although parliament has conferred certain powers upon this Board, the result of the section is, I think, that those who interest themselves in the enforcement of the Act may call the companies to account for anything done by them as a result of this application, and so control may be retained and no abuse made of privileges granted by the Board, even if such should be attempted.

Perhaps the most serious feature of this application is that referring to the grain trade. The development of this traffic has likewise received the most careful attention in parliament, and millions of public and private money have been invested in its development—in the deepening and improvement of harbours, the enlargement of ships, the construction of canals, elevators and lighthouses, the enlargement and extension of railway terminals, eliminating curves and lowering gradients—much of which has been compulsory by reason of the keen competition of the American carriers. Along the American lines there are no Lord's Day laws to interfere with or temporarily check the flow. A continual struggle for this carrying trade exists between the routes through Ontario and those through American channels. There may be some extremists who would prefer that this trade through Ontario gateways should be crippled rather than permit it to continue upon the Lord's Day; but I am mistaken in my estimate of the Christian people of the province if there is not a very large majority that would make reasonable concessions to avoid undue interference with this traffic were they satisfied of the existence of the facts that made such course reasonable.

Now, under the Act as it stands, trains and vessels in transit when the Lord's Day begins, carrying grain, may continue to their destination; and after September 15 in each year grain vessels may be loaded or unloaded before 7 a.m. or after 8 p.m. upon the Lord's Day; but it is said that this carrying trade cannot be retained for Canadian carriers if these limitations are to be strictly observed.

Turning now to the evidence given upon the hearing, Mr. Tiffin, superintendent of the northern division of the Grand Trunk Railway, has under his control the ports of Midland, Collingwood and Meaford; he says that in order to take care of the grain and by prompt movement protect the Canadian route, it is absolutely necessary to move the empty cars upon the Lord's Day, to release the vessels; that these latter must be loaded promptly, that they may return for other loads, and that if this is not done the vessel-owners will carry to American ports where they obtain a continuous service; that this would mean to the vessel owner a trip or two more in the season than to Canadian ports. The time of arrival of these vessels cannot be fixed, owing to weather and other conditions, and that he has seen on Sundays two vessels at Meaford, four at Collingwood, and six or eight at Midland, all waiting to be unloaded. This grain all passes through the elevators, and only one vessel can unload at a time at each elevator. The cars for this grain will have to come to the ports empty; and when the elevator is full, the empties are required to receive the grain through the elevator from the ship, or unloading must stop. This grain comes from Port Arthur, Duluth, Chicago and Fort William, and Mr. Tiffin says that at times they have been unable to handle this traffic even by working seven days a week; and that to prevent undue delay, after September 15 and for two months after the opening of navigation in the spring, it is necessary to haul the empty cars in train-load lots through to the lake ports on the Lord's Day, load from the elevator, and start them on to their destination.

Mr. Donaldson, superintendent in charge of Depot Harbour, states that in years of good crops the railway has more grain to handle through that port than can be cared for by working seven days a week; that there are 'tramp' vessels bringing grain to Depot Harbour that would go to American ports if they were impeded in

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unloading; their arrival cannot be timed, owing to fog, congested condition in the Sault canal, and stormy weather; and that 14,000,000 bushels have been handled through Depot Harbour in one season. This is booked from Chicago, Milwaukee, Duluth, Fort William and Port Arthur, for sailings from Montreal by various steamships, in which space has been taken; and during the rush season it is absolutely necessary, in order to handle this traffic and preserve it over that route, to make movements upon the Lord's Day that are prohibited by the Act. A large amount of package freight from the New England states, New York and Boston, also from Chicago and Milwaukee, passes through Depot Harbour. This is on the upper deck of the vessels and the grain below. The package freight has to be removed before the grain can be got at, and all this increases the difficulty connected with the unloading of grain vessels at the week end.

Mr. Donaldson says the competitive routes with his are those that run to Galveston, rail and ocean to Europe, and the lake ports to Buffalo and Toledo and other elevator points; the grain going via Buffalo continues whether Sunday intervenes or not; if that coming via the Canadian ports is held up for a day, a very serious handicap is put upon the Canadian carrier as against his American competitor.

Mr. W. G. Brownlee, Manager of Transportation of the Grand Trunk Railway says that if they are prevented from taking empty cars to the lake ports on Sunday this season, his road will lose the carrying of 5,000,000 bushels of grain. While the mere money loss to a corporation not allowed to work its employees on the Sabbath may be of no moment, it seems to me the pecuniary loss to the Grand Trunk by not being able to carry this grain is not the only thing for consideration. If it were, I should regard the evidence as of little value. If this grain cannot be carried by Canadian lines it will go through American channels, and others will benefit at the expense of the country whose every effort has been put forth to acquire and hold this carrying trade; and so, instead of merely the Grand Trunk interests being involved, it is the larger question of the commerce of the country being at stake, and while I am not at all of the opinion that this is a reason for making a week-day of the Sabbath, I do think that some modification of the Act may be made so that this traffic may be retained, and yet that the minimum of Sunday work be permitted. The railways carrying grain from Georgian Bay ports are in competition not only with the American railways but also experience the keenest competition from the all-water routes, not only in the movement of eastbound grain but in the westbound traffic. Depression in lake traffic has diverted many vessels from the upper lake carrying trade to the longer routes to St. Lawrence points or through to Montreal. The movement of this year's crop will tax to the utmost the capacity of the rail carriers from Georgian Bay points, and to place themselves in a position to compete with some degree of success with other routes, and obtain a share of this carrying trade, special tariffs were filed by them with the Board, to become effective September 4, reducing the wheat rate to 5 cents per bushel from Georgian Bay points to Montreal. It is manifest from the conditions above indicated and others that exist, that some degree of freedom, consistent with reason, should be extended to the rail carrier from Georgian Bay points; others beside those who stand for strict Sabbath observance in Ontario are concerned in this matter. Freight rates to ocean ports are of vital interest to the western farmer, and any barrier along the route reflects upon the price obtainable by him for his wheat.

Again, Ontario is a mere link in the route to the seaboard, and under the Act, as it stands, vessels and trains in transit through Ontario, when the Lord's Day begins, may continue to their destination. Grain vessels may continue loading or unloading up to seven o'clock in the morning, and may again resume after eight o'clock in the evening, after September 15, upon the Lord's Day. It is sworn and not contradicted that the grain carrying trade cannot be carried on if stopped between 7 a.m. and 8 p.m. (except where vessels and trains are in transit). It does not seem reasonable, in

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view of the vast interests involved both to the carrier and to the whole country, that this traffic should be destroyed by undue delay.

The railway company asks permission to furnish to shippers of live stock a continuous service, without which such persons would be unduly hampered in their business; but upon this branch no evidence was given by any live stock shippers, and the facts given upon the hearing do not justify the Board in interfering with existing conditions.

The next request is that in order to prevent undue delay to traffic certain shunting be permitted on the Lord's Day. Subsection (h) of section 12 gives leave to continue to their destination 'trains and vessels in transit when the Lord's Day begins, and work incidental thereto.' The interpretation clause of the Act does not define the word 'train.' Subsection 32 of section 2 of the Railway Act defines 'train' as including any engine, locomotive, or other rolling stock.

The applicants allege that great delay and loss will ensue if they are prohibited from continuing to their destination individual cars that may be in transit when the Lord's Day begins, and perform the work incidental thereto. Let a concrete case serve as an illustration; twenty cars of cattle leave Palmerston on Saturday evening, fifteen for Montreal for export by steamer sailing on Monday, five cars for Toronto, where the train arrived at, say, three o'clock on Sunday morning. What was the destination of this 'train'? It is contended the railway employees cannot leave the five cars for Toronto when the train arrives there and carry the other fifteen to Montreal, but must either hold the whole train at that point or take the five Toronto cars on to Montreal. To leave the five cars means breaking up the train, and this, it is said, cannot be done. It may be said that the Toronto cars should not have been attached to the train and so the difficulty was caused by those responsible for making up the train. Perhaps had another freight train been leaving Palmerston for Toronto to which the five Toronto cattle cars might have been attached, 'undue delay' in getting those cars to Toronto might have been avoided by not mixing the Toronto and Montreal cars; but suppose the Toronto cattle had to be there for Monday morning and no other train that could carry them was leaving Palmerston on Saturday night, it is manifest these cattle must be taken by special train, making a prohibitive freight rate, or not reach Toronto for Monday morning.

I do not think any harm will follow or any encroachment be made upon the spirit or object of the Lord's Day Act by giving the company liberty to leave the five Toronto cars at their destination and continue to Montreal with the other fifteen cars. Suppose this case actually occurred and the company was prosecuted, it would still have to establish that the whole movement was necessary in order to avoid 'undue delay,' not only dropping the Toronto cars at that point but the making up of the train in this manner at the starting point.

Illustrations might be multiplied, many of which would show how this privilege might be abused by the railways in bringing to, say, Mimico upon various trains from different points, cars destined to Montreal, and there sorting out the latter and making up an entirely new train. If this is attempted the courts must say whether it was necessary to prevent 'undue delay,' and so I think full control is retained and prosecutions will be effective in preventing abuse of privileges granted by this Board, and care exercised by those responsible for the operation of railways, will prevent the public sense from being offended by unnecessary movement of freight trains on the Lord's Day.

I therefore think that an order may issue permitting the Grand Trunk Railway Company, its servants, workmen, agents, or officers, in order to prevent undue delay to—

(1) Unload grain from vessels at lake ports in Ontario and load grain into cars at such ports between September 15 in any year and June 1 in the year following, upon the Lord's Day.

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(2) Between the said dates do such work as may be necessary for the purpose of furnishing to and from such lake ports in Ontario a continuous railway service for carrying grain from elevators and vessels upon the Lord's Day.

(3) Perform all work necessary upon the Lord's Day for the delivery to their several destinations of freight cars that were in transit when the Lord's Day began.

If it was found that attempts are made to abuse the provisions of this order, the Board will cancel it in whole or in part.

Other railways carrying grain from Ontario lake ports are, of course, entitled to the like privileges.

It may not be uninteresting to note that in a report made to the Board on the 9th of June, 1908, by one of its officials in dealing with the question as to whether the Grand Trunk Railway had, during the previous year furnished adequate and suitable accommodation for the carrying, unloading and delivery of traffic offered for carriage upon its lines, the following paragraph appears:—

'The effect upon the power of the company to receive, carry and deliver traffic without delay, in compliance with the provisions of the Lord's Day Act, will, in my opinion, mean a loss of 21 per cent per week, or, in other words, the company would move only 79 per cent of its capacity during the week.'

Order, dated 28th October, 1908, issued accordingly.

Bell Telephone Company v. Windsor, Essex and Lake Shore Rapid Railway Company.

The Bell Telephone Company applied to the Board, under sections 237 and 238 of the Railway Act, for an order directing the Windsor, Essex and Lake Shore Rapid Railway Company to bear and pay the cost of certain changes in the construction of the lines of the applicant company and of certain protective devices rendered necessary by reason of the construction and operation of the railway. The case was heard at Chatham on October 20, 1908.

Judgment, Chief Commissioner Mabey, October 20, 1908 (8 Can. Ry. Cas. 28):—

We are all of one mind on this application, and there is no reason why it should not be disposed of now.

The contention advanced by the Bell Telephone Company is in effect that where a dangerous situation is brought about, like the one disclosed by the evidence, the company imperilled may, without the leave of the Board, or without making any application to the Board, take in its own hands the remedying of the danger, the removal of the danger, and make whatever expenditure it deems reasonable, and later on apply to the Board for an order for payment against the railway company.

It does not seem to me that any reading of section 237 gives the Board authority to make such an order. This section was intended to apply and does apply clearly to a situation rendered dangerous. There, upon an application made to the Board, the Board may take such measures as, under the circumstances, appear to the Board the best adapted to remove or diminish the danger arising or likely to arise. It seems to me the whole object of the section was to place under the jurisdiction of the Board authority to deal with the danger. The Board itself was to exercise its jurisdiction in the ordering of such protective measures as it might deem expedient.

Then section 238 simply carries that a step further, and gives the Board authority to do the like things, although the railway has been located. Section 237 applies to the situation where the application is made for leave to locate or approve.

Now, it seems to me it would be opening the door far too wide to delegate, or for the Board to assume it had the right to delegate to the parties themselves, to decide what protection should be provided, when the statute itself says the Board shall exercise that jurisdiction.

Then counsel asked leave to amend, and that his case should be treated as if he were applying now for an order for protection, and that the Board should adopt the

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protection that has been decided upon by the applicants, and order compensation. We think at this stage, notwithstanding our power to make almost any sort of an amendment, that it would hardly be proper to make such an amendment as that. And, even if we did, it would still open up the same difficulty, and we would still be confronted with the same situation, namely, that the company itself has made the changes, and the case would be left pretty much as it is upon the present record.

So far as the merits are concerned, I am personally entirely with the applicants. Of course we have not heard all the evidence that Mr. Wilson had at hand, but it seems to me quite impossible to deny that the Bell Telephone Company have been put to expense by reason of the location of this danger beneath their wires. I think what they did was entirely reasonable. They were acting, as has been reported in the Naylor case, and were simply following out what the engineer of the Board recommended in that case. Whether they would be in fairness entitled to all they claim, is quite another matter, but the merits are not before us, and only incidentally do I refer to it in the way that I have. It comes back to the jurisdiction of the Board, and I am quite clear, and in that view my colleagues join with me, that section 237 does not authorize the Board to make an order of the kind asked for.

The application will be dismissed, but under the circumstances, without any costs.

Order, October 20, 1908, dismissing the application, accordingly.

Winnipeg Jobbers and Shippers' Association v. Canadian Pacific, Canadian Northern and Grand Trunk Railway Companies.

This was an application by the Winnipeg Jobbers' and Shippers' Association, through Mr. Carpenter, manager of its transportation department, to the Board, for an order directing the railway companies,—

(a) 'Where the traffic warrants it, to erect a freight shed, and appoint a permanent agent in charge of the business at such station;'

(b) 'Not to reduce any regular station with an agent in charge to a flag station without an agent;'

(c) 'Not to close any regular or flag station without the approval of the Board of Railway Commissioners.'

The applicants objected also to the terms of the 'Release of responsibility' which the shipper of freight to a flag station is required to sign.

The matter was referred to the Chief Traffic Officer and reported upon by him and his operating assistant. Copies of the Chief Traffic Officer's report were sent to the railway companies concerned and written arguments were submitted by them.

The railway companies, first, questioned the jurisdiction of the Board to make such an order as applied for; and, second, that on the merits no general or blanket order providing for the erection and maintenance of stations should be made.

The facts are contained in the judgment of the Chief Commissioner.

Judgment, Chief Commissioner Mabee, November 2, 1908, 8 Can. Ry. Cas. 151:—

This matter seems to have been first brought to the attention of the Board at a meeting in Winnipeg in September, 1906, by the board of trade of that city, and in February, 1907, a formal complaint was lodged by the applicants.

Several matters were involved in the complainants' petition, and amongst others they ask that the railway companies be ordered to,—

(1) Where the traffic warrants it, erect a freight shed and appoint a permanent agent in charge of the business at that station.

(2) Not reduce any regular station with an agent in charge to a flag station without an agent.

(3) Not to close any regular or flag station without the approval of this Board.

All the railway companies have taken exception to the jurisdiction of the Board to deal with these matters.

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Section 284, subsection (a) provides that the railway company, according to its powers, shall: 'furnish at the place of starting and at the junction of the railway with other railways and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway.'

Subsection 3 empowers the Board to order such accommodation to be furnished, having regard to all proper interests.

Section 258 provides: 'Every station of the company shall be erected, operated and maintained with good and sufficient accommodation and facilities for traffic.'

'2. Before the company proceeds to erect any new station upon its railway, the location of such station shall be approved of by the Board.'

'3. In the case of any railway, whether subject to the legislative authority of the parliament of Canada or not, subsidized in money or in land, after the 18th day of July, 1900, under the authority of an Act of the parliament of Canada, the payment and acceptance of such subsidy shall be taken to be subject to the covenant or condition, whether expressed or not in any agreement relating to such subsidy, that the company, for the time being owning or operating such railway, shall, when thereto directed by order of the Board, maintain and operate stations, with such accommodation or facilities in connection therewith as are defined by the Board, at such points on the railway as are designated in such order.'

It is argued, first, that because the above subsection 3 deals specially with railways subsidized after July 18, 1900, the fair construction of the whole Act is that the powers conferred upon the Board by this subsection do not exist as to railways not so subsidized. I do not think this contention well grounded. This section, I think, was intended to extend the jurisdiction of the Board, as to the matters covered by it, to railways not subject to the legislative authority of the parliament of Canada, that is to railways incorporated under provincial statutes, and which had not been declared to be works for the general advantage of Canada; without this subsection, the power of the Board would not extend to such railways, whether subsidized either before or after July 18, 1900.

The second objection is that subsection (a) of 284 only requires the railway companies to furnish accommodation at stopping places established for the purpose of 'receiving and loading traffic,' the contention being that 'flag stations' were used for delivering or unloading, and not for 'receiving and loading.'

I do not know that the expression 'flag station' appears in the statute, but of course it has a well known meaning.

Subsection (b) of 284 imposes upon the railway companies the duty of furnishing 'adequate' and suitable accommodation for 'the carrying, unloading and delivering of all such traffic.' Section 30, subsection (g) provides that the Board may make orders 'with respect to rolling stock, apparatus, cattle guards, appliances, signals, methods, devices, structures and works, to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public.'

It seems to me perfectly clear that under these sections the railway companies are obliged to provide suitable accommodation for unloading and delivering traffic, and if they omit so to provide then the Board has power so to order, and in doing so may require the companies to erect and maintain platforms or freight sheds, or any other 'structures or works' that might be deemed reasonably proper for the protection of property or the public. The statute seems to confer ample power upon the Board to deal with the subject matter of this application.

With respect to the first ground of the complaint, the companies all express their willingness to establish permanent agents 'where the traffic warrants it.' The difficulty is in saying when the traffic warrants such a step. Hitherto this and the other matters involved have been left entirely to the good judgment of those in charge of the management and operation of the railways, and they quite naturally object to interference; but

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if I am correct in my interpretation of the statute, it is clear that parliament has placed these matters under the control of the Board, and has imposed upon it the duty of saying when the time has arrived for the appointment of permanent agents, if that is thought by the Board to be part of furnishing suitable and adequate accommodation for the delivery of traffic. It is also stated by the chief traffic officer that in practice the companies receive freight in carload lots at these stopping points, as well as butter, cheese and eggs, in which event they would be required under subsection (a) to furnish suitable accommodation for such receiving.

The applicants submit a list of thirty flag stations upon the Canadian Pacific Railway and forty-six upon the Canadian Northern, doubtless now there are many more upon the Grand Trunk Pacific; this matter has been standing so long since originally brought before the Board that the conditions have greatly changed and it is impossible to deal with these stations or stopping places by name and the matter must be disposed of upon general lines.

I have read the evidence and fully considered all the arguments that appear upon the file. I feel myself handicapped by reason of not having been upon the Board during the progress of the proceedings, but am compelled to make the best disposition of the complaint that I am able and deem fair to all concerned. The operating assistant to the chief traffic officer, in October, 1907, dealt with the details of establishing accommodation at stopping places, and later on the chief traffic officer, on November 15, 1907, reported to the Board as then constituted, in some respects agreeing and in others differing from the opinion of the operating assistant; both of these reports I have carefully considered, and while I hesitate to set my judgment up against those of far greater experience in these matters, I am unable to say that I agree with either in all respects.

It must be kept steadily in view that it is almost always in the interest of the railway companies to convenience the public as far as possible. Flag stations are established at points for the convenience of those living at inconvenient distances from the regular stations; and if this Board required unreasonable expenditures to be made by the railway companies at once upon the establishing of a flag station, I fear that a large section of the public might be seriously inconvenienced by the omission to establish such stopping places; it may be that some relief might be had by application to the Board, but I am of opinion that great difficulty would be experienced (assuming there is jurisdiction but as to which I do not decide) in determining when or where a new stopping place should be established without the experience afforded by the receipts and travel to and from an experimental stopping point. For those reasons, I am of opinion that the companies should not be required to establish a heated and lighted station building with a caretaker in charge at these flag stopping points as recommended by the chief traffic officer. On the other hand, I think their practices in the past open to serious comment in omitting to provide any sort of platform for people to alight or stand upon, no sort of shed or shelter of any description to place freight in when discharged at these points, and in leaving goods upon the ground exposed to the elements. It seems to me that some middle course should be adopted that will provide some reasonable accommodation and protection to the public, and at the same time not operate as too great a burden upon the railway companies.

I think it not unreasonable that the companies should, at all stopping places known as flag stations, erect a suitable shelter or waiting-room which could be used for both freight and passengers; it should be provided with a door and windows. I would not require a caretaker to be kept, nor would it be reasonable to require this building always to be kept heated and lighted. There should be some sort of platforms and proper approaches. If the railway companies are willing to accept the foregoing views, the Board will hear them as to the size of buildings and platforms to be provided. If they desire to appeal from the holding that the Board has jurisdiction, we will delay until such appeal is disposed of before settling these details.

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Dealing next with the question of appointing permanent agents at flag stations, as I have said, I think the Board has jurisdiction so to order if it deems necessary to furnish to the public adequate and suitable accommodation for unloading and delivering traffic, or for receiving and loading of traffic, and in this view I am confirmed by the late Chief Commissioner in a memorandum of October 11, 1907, in which he says that the Act requires 'the railway company to provide reasonable and proper facilities for receiving, carrying and delivering traffic, and that while the point has never been decided, it may well be argued that the Board has power to require a company to place and keep an agent at a particular station where, in view of the amount of business to be done and other circumstances this would seem to be a reasonable and proper facility to be afforded.'

The question is what amount of traffic warrants the appointment of a permanent agent. I think the Minnesota law not an unreasonable one in this respect. There a total freight and passenger earning of \$15,000 requires the appointment of a permanent agent; and I agree with the recommendation of the operating assistant upon this point and I think the companies should be required to appoint and maintain permanent agents at stations where the total freight and passenger earnings amount to \$15,000 for the year, and at points where the business consists principally of shipping grain, where such shipments amount to at least 50,000 bushels, agents should be appointed and maintained at such points during the grain shipping season; and at points of shipment where a telegraph operator is located for the handling of trains, such operator should while he remains at such point, be provided with the necessary equipment to enable him to take care of all traffic at such point. It does appear to be necessary at this moment to consider the request that the companies be prohibited from reducing a regular station to a stopping point without any agent, or from closing any regular or flag station without the approval of the Board. It is not to be assumed that such step would be taken without good reason, and I think such cases should be left to be dealt with individually when they arise, assuming there is jurisdiction, as to which I express no opinion.

Strong objections are made, and I think with good reason, to the form of release required for traffic for delivery at flag stations; but I refrain from dealing with this matter as it is now under consideration by the joint committee assembled, pursuant to the request of the Board made in the circular of April last, and will be dealt with by the Board when considering the standard form of shipping bill.

Dignam v. Bell Telephone Company.

This was an application by J. S. Dignam, of Toronto, under the provisions of the Railway Act for an order directing the Bell Telephone Company to furnish him with a copy of the latest official telephone directory for Western Ontario and the United States.

The application was heard at the November sittings of the Board, 1908, in the city of Toronto.

The facts are fully set out in the judgment of the Chief Commissioner.

Judgment, Chief Commissioner Mabey, November 13, 1908, 8 Can. Ry. Cas. 200:—We are all of the opinion that this is not a matter that falls within the statute conferring jurisdiction upon this Board.

It appears that the applicant has a contract with the telephone company, and ordinarily that contract would be looked at for the purpose of ascertaining the rights that he might have in connection with the use of his telephone, the price to be paid, the service and facilities to be afforded, and so on. It is admitted that in this contract on foot between the applicant and the telephone company, there is no provision under which the applicant has any right as against the company to be supplied with directories either in or outside the city. It also appears that it is the telephone company's practice to furnish the city subscribers with city directories, but that it is not the

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practice to supply to city subscribers directories covering the subscribers outside the city.

The reasons advanced by Mr. Dunstan appeal to one as being founded upon common sense too. It seems that in western Ontario the towns are grouped, and one directory is issued, copies of those are circulated among all subscribers in western Ontario. The same thing applies to central Ontario, eastern Ontario, Quebec, and the city of Montreal.

There is nothing in the contract, nor is there anything in the statute, requiring the telephone company to furnish subscribers in Toronto with lists of subscribers either in eastern, western, or central Ontario.

So that there is no basis upon which the Board could found an order, even if there were jurisdiction so to do, because it does not seem reasonable that the company should be required to furnish city subscribers with these outside directories, thereby entailing upon the company the necessity of calling them all in every six months, or in the event of leaving them out, having their service locked up by errors arising by reason of these directories becoming obsolete, changes in subscribers, new ones coming in and old ones going out.

Then with reference to the ground of complaint advanced by Mr. Dignam, of some one in the telephone office, messenger, or some person of that sort, bringing him one directory, and promising to bring another. It does not seem to me that is a matter the Board could deal with at all. I say nothing with reference to the branch of the case about the directory being withheld on account of the alleged user of Captain Melville's telephone by the applicant. If the applicant had a right to get the western Ontario directory, the telephone company would have no right to withhold it by reason of the applicant having used some one else's telephone. It would be open to the telephone company to take such steps as they might see fit in some other form, but it is sufficient to dispose of this case by simply saying that, in the first place, there is no jurisdiction; in the second place, even if there had been jurisdiction, it does not appeal to us that subscribers in certain districts would be entitled to directories printed for and furnished to subscribers in other districts.

Order, dismissing the application, issued November 25, 1908.

Bay of Quinté Railway Company v. Kingston and Pembroke Railway Company.

The Bay of Quinté Railway Company applied to the Board, under section 364 of the Railway Act, and under any other section applicable to the circumstances of the case, for an order directing the Kingston and Pembroke Railway Company to ascertain and settle the compensation payable by the applicant company to the respondent company in respect of the running rights possessed by the applicant company over a portion of the respondent company's railway.

By an agreement between the companies, ratified by Act of parliament, such compensation in case of dispute was to be settled by arbitration.

The question was whether the Board had jurisdiction to entertain the application.

Counsel for the applicant company contended that jurisdiction was given the Board under sections 30 (*h*) and 176 of the Railway Act. The contention of counsel for the respondent company was that the Board had not jurisdiction, as the agreement was not one to which the sections of the Railway Act applied, but that it was obtained by sanction of an Act of parliament, and being a special Act, came within the provisions of section 3 of the Railway Act and that, when the special Act conflicts with the general Act, the provisions of the special Act override the latter when relating to the same subject-matter.

Judgment, Chief Commissioner Mabee, January 12, 1909 (8 Can. Ry. Cas., 202):—

The position of the matter is not very complicated. The two railways make an agreement and part of the agreement is that compensation, in the event of dispute, is

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to be adjusted by a tribunal of their own selection. That being the agreement in perpetuity, they go to parliament and get it ratified. The statute confirming the agreement states that the agreement shall be regarded as re-enacted in each session. Now, it seems to me that parliament has by that special Act stated the tribunal that shall settle the difficulty between these two companies in the event of them not being able to settle it themselves, and that the effect of the special Act is just the same as if there had been an independent and separate section in the Act stating that in the event of difficulties arising between the two companies regarding compensation to be paid to one by the other, such difficulty should be settled by a board of arbitration, one to be selected by each, and an umpire by the two. If that is the proper view of it, I should fancy it could hardly be contended that that would not be a provision that the Railway Act could not override, because of section 3 in the Act, which distinctly states that where the provisions of the Railway Act conflict with any provisions in any special Act, the provisions of the special Act shall override the provisions of the general Act. So that it seems to me perfectly apparent that parliament has provided, by reason of the agreement between these two companies, the tribunal to settle their difficulties, and that the Railway Board has no jurisdiction. It seems to me, further, even if that were not the strict legal view of it, that where two companies have entered into an agreement as to how their difficulties shall be settled, the Railway Board should ask them to abide by the agreement and settle it as they agreed to settle it. The Board is not supposed to intervene for the purpose of destroying agreements between parties. If there had been no agreement, and the parties were at large, then they could not come here, but having provided by their agreement how they should adjust their difficulties, it seems to me that even if the view regarding the special Act that I have enunciated were not correct, it would not be a wise thing for the Board to assume jurisdiction in such cases. We know of many agreements on foot between railway companies regarding leased lines, and so on, where arbitrators fix the compensation. I do not think it would be proper for the Board to intervene and take away the tribunal to which the parties agreed to go, and assume jurisdiction ourselves. We are all agreed that in this case there is no jurisdiction.

Order, dated January 12, 1909, dismissing the application, issued accordingly.

The London Fence, Limited, v. the Canadian Northern Railway Co.

The London Fence, Limited, of Portage la Prairie, complained that the railway company persisted in blocking Broadway street, in Portage la Prairie, with their trains, to the great detriment of the complainants; and applied for an order directing the company to keep the street open, so as to give them free ingress and egress to their factory; and asked that provision be made in the order for the construction of sewers and water mains under the tracks and electrical power lines over the tracks of the railway company.

The matter was heard at the sittings of the Board held by Chief Commissioner Mabee and Mr. Commissioner McLean in Winnipeg, March 10, 1909, and the facts are set out in the judgment of the Chief Commissioner.

Judgment, March 31, 1909:—

We both think in this case it is clearly shown there was an arrangement made between the late manager of the fence company and the representative of the railway, whereby the 30-foot right of way, the closed portion of Broadway on the north side of the Canadian Northern tracks, out to Main street, as shown on this plan, should be provided. It seems that the agreement was acted upon by the railway company. Some obstructions were removed, and since that time the fence company have been using the right of way as arranged out to Main street.

Complaint is made that the arrangement was not submitted to the board of directors by the then manager, and ratified by them, but that is not anything that

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the railway company had any control over, it was a matter entirely within the authority of the then manager to enter into this arrangement. It was entered into, I have no doubt, in good faith. The railway company carried out their portion of it. And we have got to see, as far as we are able, that agreements are lived up to, not only by private individuals, but also by the railway companies, if they enter into them. That this arrangement afterwards proved unsatisfactory to the new management is no reason why a further burden should be imposed upon the railway company.

We think that the agreement should be carried out. This roadway may be declared to be a right of way and granted by the railway company to the fence company, if the city of Portage la Prairie will not accept it as a highway, accept dedication of it, and agree to maintain it. Then it may continue to be an easement granted by the railway company as a right of way to this London fence company.

In addition to that, the railway consents, if the city of Portage la Prairie will extend their water main to the north along the tracks of the railway, so that a hydrant may be located at a more convenient point to the fence company, to pay that expense. That, of course, is not anything we can order, because we cannot order the city of Portage la Prairie to supply water or extend the main; but if the fence company can arrange with the city to extend the main across the street and locate the hydrant so that they may save that one-quarter per cent of insurance, then upon Mr. Clark's undertaking, whatever expense the city may be put to in connection with that, will be reimbursed.

The matter stands; the applicants to endeavour to make the arrangements referred to in the judgment.

*The City of Toronto and Canadian Pacific Railway and Grand Trunk Railway—
The Viaduct Case.*

The Corporation of the city of Toronto applied to the Board, under sections 237 and 238 of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company or one or other of them, to carry certain streets, named in the application of the city of Toronto, under and over their tracks. The application involved a direction to the railway companies to change or raise, as might be found necessary, the approaches over their tracks at certain other streets named.

The railway companies questioned the jurisdiction of the Board under the sections named to make the directions applied for.

The Board held that it had jurisdiction over the subject matter of the application, and that it would continue the hearing at once or await the result of an appeal from its decision to the Supreme Court of Canada, if that course was decided upon.

Judgment, Chief Commissioner Mabey, June 8, 1908, on question of jurisdiction:

Objection is taken to the jurisdiction of the Board to order the elevation of the railway company's tracks along the Toronto waterfront.

The argument in supporting the objection is based upon two grounds, the first of which is that the Railway Act does not in express terms confer upon the Board the power to accomplish grade separation by the elevation of the railway's tracks, that this can be accomplished only by carrying the highway over or under the railway, and that the approval of the plans and construction of the road in accordance therewith, gives under the various sections of the Act, the railway company the right to continue operating at the grade provided therein.

The second objection is based upon section 3 of the Act and will be dealt with more fully later on.

Sections 237 and 238 are those mentioned in the application as being the ones upon which it is contended there is jurisdiction.

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The railway tracks are along the Esplanade, and that is a street or highway; under section 237 if the company applies for leave to construct the railway along a highway it must file a plan and profile with the Board showing the portion of the highway affected and upon that application the Board is expressly empowered to make provision for the protection, safety and convenience of the public, and has authority to require all such measures to be taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction arising or likely to arise from the construction of the railway along the highway.

Now, if this were an application of the companies for leave to locate and construct their lines along the Esplanade I think it is perfectly clear that the Board could impose as a term of granting such leave that the track should be elevated or carried upon a viaduct.

Section 238 provides that where the railway is already constructed along a highway the Board may order the company to submit to it a plan and profile of such portion of the railway and upon such submission may make any order in respect thereof as is provided for in section 237; so if I am right in holding that the Board has power upon an original location to require elevation of tracks, it seems to me clear it has the like power notwithstanding the railway is already constructed along the highway.

Section 30 provides that 'the Board may make orders with respect to the structures and works to be used upon the railway so as to provide means for the due protection of the public.'

I do not stop to answer the argument of counsel that the result of holding that the Board had the power contended for would be to hold that it might order an elevated road from Montreal to Windsor or Sarnia or both; it is sufficient to say that I think there is jurisdiction to order elevation of tracks along the Esplanade because the tracks there are located along a highway, the first objection must be overruled. The second objection presents greater difficulty.

Section 3 of the Railway Act is as follows:—

This Act shall, subject to the provisions thereof, be construed as incorporate with the Special Act, and unless otherwise expressly provided in the Act where the provisions of this Act and of any special Act passed by the parliament of Canada, relate to the same subject matter, the provisions of the special Act shall, in so far as is necessary to give effect to such special Act be taken to override the provisions of this Act.'

Now is there a 'special Act' in existence, relating to 'the same subject-matter' as that dealt with in sections 237 and 238, viz., protection, safety and convenience of the public; if there is then it is said that the provisions of the special Act override those of the general Act.

On July 26, 1892, the city, the Grand Trunk Railway Company and the Canadian Pacific Railway Company, the latter representing also the Toronto, Grey and Bruce Railway Company, the Ontario and Quebec Railway Company and all its other leased lines entered into what is called the 'Esplanade Tri-partite Agreement' in which appear most elaborate provisions relating to the rights of the railway companies upon the Esplanade and for the construction of the Union Station. I deal with only a few of its provisions:—

Paragraph 4 provided for the erection of private overhead bridges.

5. The city agreed to prevent the public crossing the tracks on the Esplanade between Yonge and York streets, except at Bay street, and the Grand Trunk Railway waived its contention that it was not liable to contribute to the cost of making or protecting level crossings at Church, Yonge and Bay streets.

7. Provided for the construction of the York street bridge and declared it to be a public highway.

9. Provided for deviating York street, closing a portion of it and the Esplanade.

10. The Grand Trunk agreed to construct the John street bridge.

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11. Provision was made for closing Esplanade from York street to Brock and portions of Simcoe, Peter and John streets.

15. The railway companies agreed to pay \$15,000 to the city for conveyance of the portions of streets agreed to be so closed.

17. The city consented to the Grand Trunk Railway obtaining a patent from the Crown of the prolongation of Peter street and the companies consented to the city obtaining a patent of the prolongation of Simcoe and York streets, all to the old windmill line.

By 56 Vic., cap. 48 (Dom.) all the works to be done in order to give effect to this agreement were declared to be works for the general advantage of Canada and it (the agreement) was declared to be in force and binding on the parties thereto.

The first question for consideration is whether this agreement and the Act declaring it to be in force and binding, from a 'special Act' within the meaning of section 3 above quoted. Section 2, subsection 28, provides that 'special Act' shall include any Act which is enacted with special reference to such railway; is the 56 Vic., cap. 48, enacted with special reference to the railways in question here? After much reflection I am of opinion that it is not. So far as I am aware there is no direct authority upon the point, but it seems to me, reading the whole of subsection 28 that the fair meaning of the words 'with special reference to such railway' is with respect to the 'construction or operation' of the railway dealt with earlier in the same clause, and that an Act merely declaring an agreement to be in force is not necessarily an Act dealing with the construction or operation of the railway merely because some of the many clauses of the agreement deal with the matters above indicated. The Act does not purport to embody the agreement or make it form part thereof, and the present Chief Justice of Ontario has said that an agreement though ratified by an Act of the legislature still remains a private contract.

(Kingston v. Cataragui Electric Ry. Co., 25 A.R., at p. 468). It appears to me that if this Tri-partite Agreement still remains a private contract it cannot be regarded as a special Act for the wide and far-reaching purposes for which that argument is advanced.

It may also be the fact that there is no conflict between the subject-matter of the Tri-partite Agreement upon the points under consideration, with the clauses of the general Act sought to be invoked, both the agreement and the clauses of the general Act deal with public protection, safety and convenience and because the agreement, let us say, provides for an overhead bridge at a given point, probably the better view would be that there would be no conflict, within the meaning of this particular legislation between that provision and a clause in the general Act empowering the Board to order a subway, both being means of crossing the railway line, and both being for the safety and convenience of the public and the railway, the overhead bridge or subway being mere incidents, the main feature of the legislation being public safety in the operation of the railway.

The early history of the water front and the growth of the foothold of the railways there was elaborately argued before the Board. I have read the arguments since the hearing, and am of the opinion that there is nothing in all that has been said or advanced to take away the authority of parliament to confer upon this Board authority and jurisdiction to deal with the subject matter of this application, and that such authority has been conferred, and in saying this I am not overlooking the authorities under which the railway titles upon the Esplanade from time to time developed. They hold title and have acquired rights to operate upon the level from agreements made with the city by virtue of orders in council, report of the old Board of Railway Commissioners, which went out of existence in 1868, and legislative enactment pre-confederation, and provincial and federal since 1867.

The history of the matter shows that the proposal now made by the city is entirely opposed to contracts and compacts made by it with the railways from time

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to time. Prior to 1892, when the agreement of July 26 was entered into, there had been suggestions for a viaduct, this agreement entirely excluded that proposition.

On April 22, 1905, the city entered into an agreement with the Grand Trunk which, by an Act of the Ontario legislature of the same year was declared valid and binding, for the construction by the railway company of a new union passenger station and yards, this agreement is based entirely upon the operation of the railway tracks upon the level, it provides for the city closing certain streets, a foot bridge from Front street to Lake over the tracks, changes and repairs to York street bridge, and many other provisions, entirely inconsistent with track elevation as now proposed. Upon this agreement the Grand Trunk has acted, and in good faith expended enormous sums of money. Application for the order for the construction of the Yonge street bridge was made by the city, the validity of the order has since been upheld by the Court of Appeal, it is still held by the city—and under it the railways are required to construct a bridge over the tracks. I mention these matters because it was strongly argued that the city had estopped itself from making the present application, that the policy adopted, the contracts entered into, the work done and money expended by both city and railways upon the lines of protection by overhead bridges upon the well known legal doctrine of estoppel prevented the city departing from that mode of grade separation and making application now for an entirely different system. I am of opinion that this argument would be entitled in a court of law to prevail, and that the course taken by the city in the past would absolutely prevent this application from succeeding, but this Board is not a court of law, and no doctrine of estoppel is applicable or binding. The paramount object of the sections under consideration, that which overshadows all and before which everything must give way, is the protection, safety and convenience of the public in the matter of grade separation, and no town or city council by any sort of municipal mismanagement, folly or ignorance can estop itself or prevent the Board taking any step or making any order, otherwise within its jurisdiction, for the protection, safety and convenience of the public.

The question of whether the separation of grade along the water front is to be accomplished by viaduct or overhead bridges is not now being considered; it is that of jurisdiction only, if after all the evidence has been given, every interest considered, and all sides heard, the Board deems the interests of the public require a departure from the policy adopted by the city upon this matter it has it in its power to entirely protect the railway interests, and doubtless will have full regard to all expenditures made by the railways upon the faith of contracts with the city, so that no injustice will be done to, or loss fall upon the railways by reason of variation of plans made, structures or buildings erected, lands purchased or money expended, which would be of no avail consequent upon a changed policy.

Of course, it will not be regarded from the foregoing that any change is contemplated by the Board; that matter has in no way been considered by the Board, and is not ripe for discussion, and these observations are made with the view of indicating how full redress may be had against the city, if there be ground for the same, other than by disputing the Board's jurisdiction to intervene upon behalf of the public.

All that is now being decided is that the Board has jurisdiction over the subject matter of this application, and has authority to order grade separation along the Esplanade either by overhead bridges or viaduct, by depression of tracks or highways in whole or in part as may be deemed the most advantageous in the interest of the public and in the operation of the railways.

I have given full consideration to the argument that there are no streets running to the waterfront. The Court of Appeal has held the contrary as to Yonge street and I have no doubt most, if not all the other passages to the water are highways within ss. 11 of section 2 of the Act where a highway is declared to include any way of public communication.

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The Board will continue the hearing of this matter at once if the parties so desire, or await the result of an appeal from this opinion to the Supreme Court if that course is decided upon.

The facts are fully set forth in the judgment of the Chief Commissioner.

Chief Commissioner Mabee, December 30, 1908.

This matter comes up upon the application of the railway companies for approval of plans for a new Union Station at Toronto. This, of course, involves what the elevation of the station shall be, as well as that of the railway tracks that enter it. The railway plans provide for rail level some four feet above the present elevation of the tracks; the station plans provide for a subway for passengers to pass under certain lines to reach the southerly tracks, and as part of the contemplated work the railway companies produce bridge plans and propose carrying Bay and Yonge streets over the tracks to the water front, and suggest that, as the traffic demands it, the streets east of Yonge should be dealt with in the same manner. It is admitted by the representatives of the railways that the time has arrived when grade separation at Bay and Yonge streets must be provided for. They do not admit the necessity for this at the present time, east of Yonge street. The one broad question for determination as this matter now stands is whether this separation of grade shall be accomplished by the city streets being carried over the lines of railway tracks, or whether the latter shall be carried over the streets, and owing to the physical formation of the city water front, either proposition presents the gravest engineering and financial difficulties.

The Railway Act provides that every bridge under which a railway passes shall be so constructed as to afford an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams of the bridge which are over the space occupied by the passing car, and, except by leave of this Board, as to bridges constructed since February 1, 1904, the space between the rail level and such lowest beams shall in no case be less than 22 feet, six inches. This, of course, is to provide head room for those whose duties require them to be on the tops of freight cars.

The railways propose a bridge at Bay street with only about 19 feet clearance with 4.90 per cent grade at the north end and 4.50 per cent grade at the south end. At Yonge street 19 feet clearance and grades of 3.75 per cent and 4.50 per cent respectively. At Church street 20 feet clearance and grades of 3.25 and 4.90; Jarvis, 19 feet 6 inches clearance and grades of 3.25 and 4.50; Sherbourne, 18 feet 6 inches clearance and grades of 2.90 and 4.20; and Berkley, 19 feet clearance and grades of 3.70 and 4.50.

Bay street would necessarily be a point that a large amount of traffic would pass over. These plans, even with this bridge having $3\frac{1}{2}$ feet less clearance than called for by the statute, has nearly a 5 per cent grade going south and $4\frac{1}{2}$ per cent going north.

It does not seem to be possible to adopt the bridge system and obtain grades over the bridges that would be practicable, unless this Board takes the responsibility of permitting structures of less head room than the law provides for.

It was said the rule requiring men to go on the tops of freight cars in the Toronto yards could be abolished; different rules for different terminals would only lead to confusion. The Board's accident inspectors are being continually called upon to investigate accidents caused by lack of head room under bridges, and lack of lateral space along the sides of engines and trains. Our officials have been steadily endeavouring to eliminate these sources of danger, and it is entirely out of the question that we should sanction the erection of overhead bridges from York street east, of a character different from that which the law calls for. There are now too many of these structures in various parts of the country, and instead of sanctioning more, it is the plain duty of the Board to endeavour to get rid of those that now exist.

The grade over the bridges is of paramount importance to the future of Toronto. Nothing can prevent the development of harbour traffic, and in years to come a haul-

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age over long bridges on 5 per cent grades would impose a tax upon traffic arriving and departing by the water route that should not be permitted. Only a few years ago it was thought by all concerned that in the construction of York street bridge much had been accomplished; to-day about the only question that the railways and the city agree upon is that this bridge must be pulled down. I am free to confess that when I embarked upon this inquiry, I thought the erection of bridges the proper solution of the problem, but the more it is thought out, keeping steadily in view the permanent welfare of a large and rapidly developing city, I am driven to the belief that, if bridges are erected this year, ten years hence would see them all torn down.

Now, if these terminals are to continue on the water front and the streets cannot conveniently be carried over the railway tracks, it is apparent that the latter must be carried over the streets, if grade separation is to be accomplished. Two plans were submitted showing how this could be done, one upon behalf of the city, and one by the Board of Trade. These plans came in for much criticism by the engineers called upon behalf of the railways, and by whose evidence I was much impressed; but the true situation is that neither of these plans were submitted with the idea that they were complete in all details, and it is not contended that very many matters must be considered and be provided for that did not enter into the calculations of those propounding these two plans; indeed it could not have been expected that the Board would order a work of this character to be undertaken by the railways upon either of these plans. I do not consider that any plans are before us, other than for the purposes of illustration, and all that we can now decide is as to the manner that this separation of grade is to be accomplished, and we hold that it cannot satisfactorily be done by overhead bridges. I have adverted to the financial aspect of this matter; the time has not yet arrived to say whether the cost of carrying the railway tracks over the streets is prohibitive, or if not, how the cost is to be apportioned. This must depend upon the plan that is finally decided to be the best for all concerned, and must, of course, have regard to the reasonable operation of trains and the handling of traffic. How the railways would prefer that their tracks should be carried over the streets, the Board does not know. So far they have been contending that the policy of carrying the streets over the tracks should continue. I do not hesitate to say that when it is known that the tracks must go over the streets, the railways can prepare plans of a work that will improve upon those now before us as to convenience in the movement of traffic, and still retain the essential features contended for by those opposed to bridges.

Upon the evidence now before us, I am of the opinion that it is impossible to deal intelligently with the financial side of this question or to fairly divide the expense of the work. The cost of constructing a given number of steel bridges can be estimated with reasonable accuracy, but when their erection involves damages to adjacent lands, filling in the water front, re-arranging or extending the slips and wharfs where large industries exist and carry on their business, building a new street far out in the waters of the bay, it is out of the question to estimate what compensation courts or arbitrators would grant to those whose lands or business were injured. Again, the cost of construction of retaining walls and filling for a viaduct, with the necessary steel work, can be arrived at with reasonable accuracy, but the consequential damages arising, or that might arise, to adjacent properties, by reason of depriving industries of spurs, if that were necessary, possibly doing away with team tracks, narrowing the Esplanade, and other claims for damages that doubtless would be made, cannot now be foretold. About the only matter that is perfectly clear is that either mode of grade separation will prove enormously expensive.

The railway companies should be required to file with the Board, within two months, and at the same time furnish copies to the city, plans, profiles and estimates for the works necessary to separate the grade of the railway from the streets from York to Cherry streets, inclusive, except such as may have been closed. These plans

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must make provision that no surface tracks of any kind shall cross York, Bay, Yonge or Church streets and provision must be made for a fourteen foot headway at all the streets at present street level, station plans to be amended to suit the changed elevation of the tracks. I say nothing at present as to the elevation and industrial spurs or yards, as these are matters that should primarily be left to those who are responsible for the operation of the railways, and the handling of traffic at reasonable rates, a full consideration of these matters can be had when the plans are developed.

Nothing upon the subject has so far been said, but should it be thought desirable by the railway interests to deal with the whole situation through the medium of a terminal company, then the latter may file plans instead of, or for, the railways.

The situation at and east of York street only is now being dealt with; that west of York, and from Bathurst to west of the Humber, is to be spoken to at Ottawa on January 12.

My brother commissioners are of the opinion that the matter should be finally disposed of now, and the cost apportioned, so the order will issue in accordance with the views of the majority.

Judgment of Assistant Chief Commissioner Scott, concurred in by Mr. Commissioner Mills, December 24, 1908.

The Board has had the question of the elimination of grade crossings along the water front at Toronto before it for some time. After the unfortunate fire which occurred in Toronto in 1904 when most of the industries south of Front street to the railway tracks from York to Yonge streets were destroyed, the Grand Trunk Railway Company applied to the Board and obtained authority to take the territory mentioned for the purposes of a new Union Station.

After considerable delay on account of litigation the property for the new station was acquired and an application was made to the Board for the approval of the station plans. These plans, however, could not be approved until the question of what grade the tracks should be on was determined.

The grade crossings at Yonge and Bay streets have been a source of very great danger and much annoyance on account of delays caused by the blocking of the crossings by passing trains, not only to the citizens of Toronto who visit the island and the water front during the summer months, but also the large passenger and freight traffic which goes to and from Toronto by boat during the months of water navigation. This danger and source of annoyance also exists at other grade crossings but not in as aggravated a form. Different methods have been suggested as to what would be the best solution of a situation which is generally recognized to be an intolerable one.

In November, 1907, a plan was submitted to the Board by the Toronto Board of Trade of a viaduct upon which four running tracks were carried at a height which would permit of the passage of vehicular traffic including trolley cars under these tracks on the different streets which run to the water front. This plan showed the commercial sidings and team loading tracks of the railways remaining at street grade.

A formal application was made to the Board some months later by the Municipal Council of the city of Toronto, for an order compelling the railways to raise all their tracks including commercial sidings and team loading tracks to a sufficient elevation to permit of free passage on the highways under the tracks as in the Board of Trade plan.

At the recent sitting of the Board in Toronto this viaduct scheme was strongly opposed by the railways on the grounds of excessive expense and the inconvenience it would cause to the railways and the shipping interests.

As an alternative proposition the railways suggested that bridges be built carrying the highways over the railway tracks. Such structures to be erected at the different streets leading to the water front as and when they became necessary in each particular case—the railways admitting that bridges should at once be built at Yonge and Bay streets. I think that as the railways will have to pay the major portion of the

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expense of any scheme for the elimination of grade crossings at Toronto and in other ways have a very large interest in the method, whatever it may be, that is to be adopted to bring about this desired result, their scheme should receive our most serious consideration and their suggestions followed if it is not incompatible with the best interests of all concerned.

I have come to the conclusion, however, that in this case the plan of carrying the highways over the railways by bridges should not be adopted for any of the streets east of John street. Bridges at Bay, Yonge and the streets east of Yonge would not only prove excessively expensive because of the great quantity of filling that would have to be done in the Bay and the undoubtedly very great, but at present inestimable land damages at both their north and south ends which would have to be paid, but would be most injurious to the commercial industries along the water front and be inconvenient to every one having to use them.

The Railway Act requires bridges over railways to have a clearance of twenty-two feet six inches from the top of the rail to the bridge, but gives the Board power under special circumstances to reduce this space. It seems to me that if there ever are cases where the Board would be justified in departing from the principle adopted by parliament that bridges should be high enough to permit a man to stand on top of a box car and pass under the bridge with safety the Esplanade railway yard with the tremendous freight traffic both east and west is not one of such cases. If bridges were decided upon they would therefore have to have a clearance of 22 feet 6 inches; but the railways showed a clearance of from eighteen feet six inches to twenty feet on the bridge plans they submitted. Their idea in suggesting low bridges was, of course, to prevent the bridges extending too far north and south. But, even with a clearance of eighteen feet six inches, they had to show grades of about 4 per cent on the ramps to keep the bridges from crossing Front street on the north and extending some distance out in the bay on the south. In addition to the objection to the bridges on the ground of inability to have proper clearance or head room the grades on the ramps would be too steep. It was clearly established in evidence before us, that for satisfactory teaming the approaches to the bridges should not have a grade exceeding 3 per cent. As already indicated, such a grade could not be arranged.

I am, therefore, of the opinion that as grade separation for the streets east of John street cannot best be brought about by carrying the highways over the railways, that the other method, that of carrying the railways over the highways by viaduct, which to my mind will prove neither excessively expensive or inconvenient, should be adopted. I do not, however, concur in the city's suggestion that the commercial sidings and team loading tracks should be elevated. These might well be left on the street level within certain bounds to be used by moving cars or locomotives only between specified hours of the night. If the city's idea of elevated switches, team loading tracks and a roadway for vehicles were carried out, very great damage would be done to prominent commercial establishments and considerable inconvenience and loss of business would be experienced by a number of industrial concerns; and all for no purpose which could not be obtained in another way at practically no expense.

If four running tracks were elevated on a viaduct of a width of about 53 feet there would still be ample room on each side to take care of the commercial sidings and the team delivery tracks if the adjacent city property were utilized for the purpose. But a right of way should, of course, be maintained for teaming on Esplanade street and south of the viaduct for ingress and egress to all property on the water front. But as the chief evils to be cured are the grade crossings at Yonge and Bay streets, which are subject to be used by large numbers of people at all hours of the night and day, particularly during the summer months, I would prohibit the existence of any tracks across either of these streets at grade, and therefore all commercial tracks leading from the east would have to stop east of the east side of Yonge street. With regard to the limited use which might be made of these tracks I would suggest,

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subject to further argument which might be addressed to the Board on this point, that cars or locomotives be not permitted to be moved on them except during the hours between 7 p.m. and 6 a.m., with the exception in the case of fruit or perishable merchandise which might be spotted on such tracks during the day if special precautions were taken to prevent accidents to persons using the street openings through the viaduct.

In addition to Yonge and Bay streets, I think York street, which should be produced to the water front at grade through a subway under the running tracks and the elevated station tracks, ought to be absolutely free from all grade crossings, as it would be much used not only by a large number of pedestrians but also by heavy teams from the Canadian Pacific Railway freight yard. I would therefore stop all tracks at grade from the west at the west side of York street. The John street bridge will have to be raised to give 22 feet 6 inches clear over the viaduct tracks and bridges over all tracks with the same clearance built at Spadina avenue and Bathurst street. The highway crossings on the Grand Trunk from Bathurst street to the Humber river are to be dealt with at a meeting of the Board in January next, but as all parties are agreed that the proper solution for the elimination of grade crossings on this line as far as the Sunnyside Crossing is the depression of the tracks from Bathurst street west, that matter need not interfere with the final determination of the question at present under consideration.

Having decided upon a viaduct, it follows, of course, that the new station must be elevated to the same grade as the viaduct. The location and details of the station are, I understand, generally satisfactory, but the best method of ingress and egress for vehicular traffic to and from the station could not be settled until the elevation of the tracks was determined.

The street openings in the viaduct should have fourteen feet clear head room and be of the full width of the street. The details of the plans and the general layout of the ground should be left to the railways to suggest when they submit plans for the approval of the Board.

I do not think the Board should now determine at what precise point the eastern end of the viaduct should be. It is sufficient, I think, for the Board to inform the railways at this juncture that Cherry street must be crossed overhead with a clearance of 14 feet. I say nothing at the moment as to the disposition of the Eastern avenue and Queen street crossings, east of the Don, as the Grand Trunk Railway have filed plans with the Board showing a line from the Don to Port Union following the lake shore, which would eliminate the Scarborough Heights grade. If this plan is gone on with and the new line constructed, the line over Eastern avenue and Queen street would doubtless be abandoned. The railway does not now run on Mill street, but if the construction of a viaduct would require the use of Mill street for railway purposes it should be so used, provided a right of way for vehicles was preserved on this highway.

I think the railways should be ordered to submit to the Board, within, say, sixty days from the date of the order, plans of a viaduct and bridges along the water front as far west as Bathurst street on the lines indicated. Copies of the plans should, of course, be sent to the city and then the Board should hold a sitting in Toronto, if necessary, when the details of the plan might be discussed, and if the Board is satisfied with them they could be finally approved and the railways ordered to commence construction.

Perhaps the most difficult point to determine in all this question is what is the fair and reasonable proportion of the cost of this work which should be contributed by the city of Toronto. We have had evidence of what has been done in other cities, but it has been of little assistance to us because circumstances differ so much in different cities. My own view is that as the proposed viaduct is going to prove such a benefit to Toronto that the city's contribution towards it should be substan-

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tial. We must also bear in mind that the railways were permitted, if not induced by the city, to come into Toronto on the Esplanade level, and have spent very large sums of money in supplying terminals for Toronto. The railways will, of course, receive some benefits from a viaduct, such as being permitted to enter and leave the city at a much higher rate of speed than at present and be relieved of the constant danger of accidents at grade crossings, but these advantages will not be commensurate with the cost of elevating their tracks. I therefore think that Toronto should contribute one-third to the cost of a four-track viaduct, excluding the cost of tracks, ties and ballast, and one-third of the cost of the substructure necessary to elevate all tracks at the proposed new station.

It does not appear to me that land damages outside of those which may be suffered by the railways will be very great. If there are any such damages I think they should be settled by the city and the railways contribute two-thirds of the amount. With regard to damages suffered by the railways, I think they should be entirely paid by themselves. This will merely amount to an adjustment between the railways of each one's interests and losses in connection with the carrying out of the whole station and viaduct scheme. If the railways cannot adjust their difficulties between themselves the Board will do it for them as best it can at a later date.

The city will have to permit the laying of tracks or the construction of parts of the viaduct on city streets. I would not allow the city any compensation in such cases.

With regard to the bridges at John, Spadina and Bathurst streets, the city should pay one-third of their cost and be responsible for the maintenance of the sidewalks and roadway on them.

The entire cost of maintenance of the viaduct should be borne by the railways, but the city should maintain the roadway and sidewalks at street openings. Before an order is issued carrying out the board's decision in this matter, draft copies of such order should be sent to all parties interested and they should be given an opportunity to speak to it. Owing to the fact that the parties were so far apart in their respective submissions to the Board and as we were not favoured with argument at our recent sittings, there may be some matters of detail in the proposed order which might be changed or some points covered which may have been omitted.

McDougall and Secord v. Canadian Pacific Railway.

The applicants applied, under sections 26, 30 and 158 of the Railway Act, and such other provisions of the Act as were applicable, for an order declaring that the plan, profile and book of reference deposited by the Canadian Pacific Railway Company, as lessee of the Calgary and Edmonton Railway Company, in the Land Titles Office for the North Alberta Land Registration District, was not in accordance with the provisions of the Act, and that so far as the same affected certain lands named of the Hudson Bay Company's reserve, should be cancelled and annulled.

The application was heard at Edmonton on the 19th February, 1909, and at the conclusion of the hearing Chief Commissioner Mabey delivered the following oral judgment, which sufficiently sets forth the facts:—

This application brings up an important question of law, and if counsel for the railway company is right about it, it may as well be disposed of at once, so that if the view we take is erroneous we can be put right without delay.

This application affects lots 125 to 144 in block 10, and lots 41, 91 and 92 in block 9 of the Hudson Bay reserve. Now, in reference to the first series of lots in block 10, it seems before this application was launched bona fide steps were taken in order to ascertain the value of the property, so that the railway company might obtain title from the owners. Those proceedings were on foot, and it does not appear to us to be

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a wise thing for us to interfere with those proceedings, and with respect to the lots in block 10, the application must be refused.

The situation is quite different with respect to the three lots in block 9. This plan has been registered upon these lots now since, I think it was said, 1906.

Mr. NEWELL.—The 26th of May, 1905.

Hon. Mr. MABEE.—1905 it is said; and since February or thereabouts in 1907 apparently no steps have been taken to negotiate with the owners of these three lots and fix the price that should be paid by the railway company upon taking title from the owners.

I do not know why steps were not taken to arbitrate with respect to the land in block 9 at the same time as proceedings were taken with respect to the lots in block 10. However, the fact is that no steps have been taken, and that during the past four years a cloud has rested upon these lands by the registration of this plan.

Now, the statute limits the compensation to be fixed in the event of the parties being unable to agree, and confines the arbitrators upon arbitration to the value of the land at the date of the registration of the plan.

It is contended by counsel for the railway company that under the statute authorizing the construction of the railway company, the railway company has a right to register plans upon the lands of private individuals, tie them up during the whole life of the charter without taking any steps to acquire title, and when steps are taken, then the land-owner is limited in compensation to the value of the lands at the date of the filing of the plans.

I do not understand that to be the law. If it is, the sooner it is found out to be the law the better for all concerned.

I think that under the Railway Act, where the Board has granted an order permitting registration, or approving of the plan, thereby permitting it to be registered, that there is clear authority under the amended section 29 of the Act of last year, which gives the Board power to review, rescind, change, alter or vary any order made by it.

Now, there was an order made by this Board approving of the location of this line through these three lots. It seems to me, if the language of the section means anything, it means that this Board may review that order, may rescind it, may change it, or may alter and vary it, and the conclusion we come to is that it will do equity between these parties to vary that order by rescinding the portion of it which located or approved of the line of location through these lots, 41, 91 and 92; and that will be the order of the Board.

If, on the other hand, the railway company is willing to let the compensation proceedings go ahead upon the basis of the present value, if that course is agreed to, no order need issue. If, however, that course is not agreed to, an order will go varying the former order by cancelling the location through these lots I have indicated.

Counsel for the railway company applied for leave to appeal to the Supreme Court of Canada from the judgment of the Board.

Held, by Chief Commissioner, that the question involved was one of jurisdiction, and that application for leave to appeal must therefore be obtained from a judge of the Supreme Court of Canada.

Complaint James Richardson & Sons.

The complainants, grain and commission merchants of Kingston, Ontario, complained to the Board that the railway companies unjustly discriminated against Kingston and in favour of Lake Huron and Georgian Bay ports, on shipments on western grain to points in Quebec and the maritime provinces, and applied for an order directing the said companies to file rates from Kingston and points in Quebec to the

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maritime provinces similar to those which the said companies had established from Georgian Bay and Lake Huron ports.

The application was heard at Ottawa.

Judgment, Mr. Commissioner Mills, concurred in by Chief Commissioner Mabee and Assistant Chief Commissioner Scott, January 13, 1909:—

I think Mr. Richardson should be placed upon the same basis as other shippers of grain, &c., to the maritime provinces, that the rate charged to him should be such that he will be at no disadvantage at the various points at which grain, &c., is sold in the maritime provinces, that is, that the boat rate from Fort William to Kingston plus the rail rate from Kingston to various points in the maritime provinces should amount to the same sum as the boat rate from Fort William to Georgian Bay ports plus the rail rate from the said ports to the same points in the said provinces.

I think it is in the interests of the development of trade at various points in the country that Mr. Richardson and others like him east of Georgian Bay ports, unless very far east, should not be given any advantage nor be placed at any disadvantage in shipping from Fort William via Kingston elevators to points in the maritime provinces as compared with persons shipping from Fort William via Georgian Bay elevators to the same points in the maritime provinces.

The order of the Board, dated January 13, 1909, directed that the rates charged from Kingston by the Grand Trunk Railway Company, the Canadian Pacific and the Kingston and Pembroke Railway Companies on western grain arriving at Kingston by vessel and destined to points in Quebec and the maritime provinces, be made on the basis of seven cents per 100 pounds from Kingston to Montreal; and that the proportional or 'arbitrary' rates from Montreal to the said points in Quebec and the maritime provinces, be added to the said rate of 7 cents per 100 pounds from Kingston to Montreal, do not exceed the proportional or 'arbitrary' rates from Montreal in force concurrently on western grain transferred at Lake Huron ports.

The order further directed that the rate fixed by this order should become effective not later than February 18, 1909.

Thrift vs. New Westminster Southern Railway Company.

This matter was heard at the sittings of the Board held at Vancouver, February 25, 1909.

The facts are fully set forth in the judgment of the Chief Commissioner.

Chief Commissioner Mabee, March 15, 1909.

The New Westminster Southern was incorporated by an Act of the British Columbia Legislature, and has never been declared to be a work 'for the general advantage of Canada,' and objection was therefore taken that this railway is not under the control of, or within the jurisdiction of the Board of Railway Commissioners.

The road is operated by the Great Northern Railway. It was not shown that the New Westminster Southern had any rolling stock or equipment, or, so far as its operation was concerned, that it was in any way a separate concern from the Great Northern. The trains of the latter road between Seattle and Vancouver pass over the line of the New Westminster Southern, and it is the connecting link between the line of the Great Northern, in the State of Washington and Vancouver.

The Great Northern Railway, in so far as it operates in Canada, is subject to the jurisdiction of the Board. The New Westminster Southern connects with the former railway, and so falls within section 8 with respect to through traffic and all matters appertaining thereto. Subsection 21 of section 2 defines 'railway' as meaning any railway which the company has authority to construct or operate.

The situation, then, is that a railway company subject to the jurisdiction of the Board, is operating this provincial road, and the applicant asks that certain facilities shall be provided by the railway company at Hazelmere, in the province of

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British Columbia. The request is that a platform be established so that passengers may disembark with safety from the Great Northern trains, and some small station building be provided as a means of shelter for travellers.

These are matters appertaining to through traffic upon this railway, and I am of opinion that to that extent the railway is under the jurisdiction of the Board. I think it also only reasonable that proper facilities should be provided at Hazelmere for the safety and convenience of the public using the trains of the Great Northern Railway. The station need not be an expensive affair, but the Great Northern Railway Company, I think, should provide a suitable platform and a building of moderate expense that may be used by travellers as a shelter, and also for the temporary storage of freight. The Great Northern Railway Company, whose counsel opposed the application, will be added parties.

The formal issue of the order may be delayed for 30 days if the Great Northern Railway Company desires to apply for leave to appeal upon the question of jurisdiction. If no appeal is taken, one of the Board's engineers may define the size of the platform and location, and size of the shelter as well as the location.

Re Interlockers.

Chief Commissioner Mabee:—The senior roads complain that under the practice heretofore in force, an unfair burden is placed upon them when leave is granted to a junior road to cross their right of way and tracks. The senior road is in possession of the field, and although it is necessary in the public interest that under proper conditions and at proper points, junior roads should have the privilege of crossing, yet it strikes one at the outset that such privilege should not carry with it any burdens upon the senior company, other than those absolutely necessary as incidental to the crossing. Where an interlocking plant is established, an additional man is required to operate it, and the practice has been for the senior company to appoint this man. This imposes upon the senior company some additional risk that cannot be avoided; there must be at times delays in operation; the crossing itself is an added peril, carrying with it dangers of collision and loss to the senior company, that it would not be subject to had the crossing not been permitted; but hitherto in most instances, I think in all cases where the Board has made crossing orders, the man in charge of the interlocker has been regarded as the employee of the senior company only, in which event if, through his carelessness or negligence, damages arose to the property or employees of the junior company recovery could be had against the senior company. This seems absurd. The senior company may resist to the utmost the application to cross; this may be forced upon it; then a careful and skilful man may be selected to operate the interlocker, but through some fault or lapse of his, a train on the junior road is derailed, and the senior company is held for all the damage. The injustice of the situation is apparent. Before the establishment of this Board, the companies were fairer than that to one another, and agreements were provided where the junior company recognized that it was unreasonable to impose upon the senior company the liabilities above pointed out.

When this application came up, I thought the electric railway companies should be notified; this was done, and their views were placed on record. The situation as to these roads is, I think, quite different from that of the steam roads. In most instances, where they cross steam railways, these crossings are upon public highways where neither company owns its right of way, but as to which each has an easement only; differences as to result in the event of collisions and many other matters that occur to one, make it necessary to eliminate all electric roads from the consideration of this application, and the conclusions arrived at will have an application to the steam roads only. It is quite impossible to say how matters would work out upon the whole if left as they now are; the older roads are continually building new lines,

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which are junior to other trunk and branch lines, and I suppose all the roads have both senior and junior crossings at various places, but if the loss did in the end even up, it would be by accident only, and this is a risk that should not be permitted to continue.

The senior company, while appointing the man to operate the plant, recognizes the interest of the junior company in the selection, and the latter company should have the right to require his dismissal for cause.

It was suggested upon the argument that the junior company should be given the right to operate the plant; this, of course, would not be reasonable and would be an unjust interference with the property and franchise rights of the senior company.

In some existing agreements, the signalman or operator of the interlocker is called a 'joint employee.' Now if an accident happens upon the junior road, owing to the negligence of this signalman, and he is not a fellow servant of the trainman upon the junior road, it is likely their damages against the senior company would be measured in a different scale than if the signalman were a joint employee of both companies. These damages should be borne by the senior company, but should be thrown back upon the junior company, so this anomalous position would be the result. The junior company is paying all the expense of installing and operating a plant to protect its patrons, property and employees; the man in charge causes damage to the latter in permitting two trains to collide, and the junior company is compelled to compensate upon a common law basis, while if this same crossing is sanctioned by the Board without the installation of an interlocker, the employees of the junior road injured in a collision at the crossing might, in some cases, be without redress.

This signalmen, although selected by the senior company, is always paid by the junior company; he is performing services for both. Sometimes the greater services are rendered to the junior company; the latter can, under certain circumstances, call for his dismissal; why do not all these elements establish a joint service. The whole situation is an artificial one, arising through terms and conditions imposed by the Board in the interest of the safety of the public, the employees, and the preservation of the property of the railway companies. The senior company is forced, by the necessities of the junior company, to engage this extra man, and if it exercises care in the selection, it seems to me it discharges its duty to the junior company and should not be liable to the latter company for the negligence of the man engaged; it has in addition to bear its chance of loss by reason of the negligence of this man, forced upon it by the junior road. The senior company probably, in most instances, has the most at stake at new crossings, so the engagement of the signalman is left in good hands. The junior company should not be placed in a position where it might be held for greater damages because it is called upon to provide protection, than it would were it at liberty to cross without protection. Again, the junior company should not be subjected to liability upon a higher scale, because it is prevented from selecting the man it has to pay for operating the protective plant it has been compelled to install.

I think from every point of view, in fairness to both roads, this signalman should be regarded as a 'joint employee' of each, and that where one steam road applies for leave to cross another at grade, permission for such crossing should be given, where an interlocker is required to be installed, only upon condition that the companies place in charge of the interlocker a competent joint signalman, who shall be the joint employee of both companies, selected by the senior company and liable to dismissal for cause upon complaint or objection by the junior company, and that then each company shall be liable for all the loss or damage suffered or sustained on its own lines by its patrons or employees, or to its property, caused by the negligence of the joint signalman, and in no event shall the companies, as between themselves, be liable for any loss or damage of any nature or kind whatsoever happening upon the line or lines of the other, and caused by or arising from the negligence of such signalman.

It was understood that the conclusions arrived at in this matter should apply to all

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interlockers ordered or established since October 1 last, but, of course, as to any in existence before that time, or as to those covered by agreements between the companies themselves, and continuing upon foot, these conditions will have no application.

If the interested parties desire to speak to the settlement of a permanent and settled form of conditions to go in these orders in the future, it may be taken up at the next meeting. It might be well to embody the conditions that appear in, I think two, former orders regarding interlockers, with those above indicated, so the whole interlocker provisions may appear in each order as it issues.

March 30, 1909.

Re Canadian Northern Railway and Don Valley Lands.

Argued 22nd April, 1908. Judgment 28th April, 1908.

Chief Commissioner Mabee.—My brother Commissioners heard this application before I became a member of the Board and were of the opinion, in so far as the facts were concerned, that the application should be granted. Some of the landowners, however, raised the objection that the proceedings did not fall within the provisions of section 178 of the Act.

This provides that should the company 'require.....more ample space than it possesses or may take under the last preceding section.....for the diversion of a highway, or for the substitution of one highway for another,..... it may apply to the Board for authority to take the same for such purposes without the consent of the owner.'

Subsection 4 provides that 'the Board may, in its discretion, and upon such terms and conditions as the Board deems expedient, authorize in writing the taking, for the said purposes, of the whole or any portion of the lands applied for.' This section is much wider than section 139 of the Railway Act, 1903, which did not contain the words relating to the diversion of a highway, or the substitution of one highway for another, nor was it clear that under subsection 2 of section 186, a highway could be expropriated and closed up.

The necessity for the railway taking the particular lands in question for the purposes set forth in the application has been sworn to by the engineer, as required by subsection 3 of section 178. At the hearing oral evidence was given to the same effect, and the Board's engineer has reported that, in his opinion, such necessity exists.

Objection was taken by Mr. Osler for some of the persons interested that the railway was endeavouring to expropriate these lands that it might convey them to the city of Toronto in substitution for certain lands the city was selling to the railway company, but a perusal of the agreement entered into between the railway company and the city shows that the lands the company is asking authority to take are to be used as a public highway in lieu of certain streets running through the lands covered by the agreement for sale entered into between the city and the railway company; and my brother Commissioners have found as a fact that the lands covered by this application are required that the highway or highways in question may be diverted. Objection was also taken that the railway company intended locating a railway yard upon the lands hitherto acquired by it and those it was purchasing from the city; but I do not think, upon this application, the Board has any power to prevent the location of a yard at the point in question, the only matter for determination being whether the lands applied for are necessary for the diversion of these highways. If they are, the section covers the application. Some of the landowners admitted they could not successfully oppose the application. It is true subsection 4 makes it discretionary with the Board. This discretion has been exercised by my brother Commissioners in favour of the applicant.

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The railway company is not, however, necessarily entitled to locate the diverted or substituted highways as laid out upon the plan filed. The landowners are entitled to a voice in the new location, and if by reason of a change in such location the company is unable to obtain a conveyance of the lands covered by its agreement with the city, it necessarily follows that this application fails.

In the meantime the Board's engineer will, after conference with the interested parties, direct where these diverted or substituted highways shall run. Then, if the city is still willing to carry out its agreement, the company may have authority to take the lands necessary for the new highways, but full compensation must be paid to all landowners whose property is taken, not only for the value of the lands so taken, but also damages (if any) to the rest of the lands which may be injuriously affected by the location of a railway yard at the point in question, and generally by reason of the exercise of the powers conferred upon the company. If in the result the railway company takes lands from the owners affected for the purpose sought, the arbitrators may, in fixing compensation or in determining the costs of the arbitration, have regard to the landowners' cost of this application, and in the event of the railway company not acquiring the lands applied for, or any other lands from the owners affected by this application, then it should pay the landowners' cost of this application; in the latter event to be fixed by the secretary of the Board.

Judgment of Chief Commissioner Mabee, concurred in by Deputy Chief Commissioner Bernier and Commissioner Mills.

Re Bell Telephone and Windsor Hotel Agreement.

The only object in submitting this agreement for the purpose of obtaining the approval of the Board is that, for the term covered by the contract, the Bell Telephone Company may be lawfully entitled to exact the tolls provided for in the contract.

The result of the Board's unqualified approval would be, no matter how the situation might change in future years, that the telephone company would be entitled to enforce payment of the 10 per cent rate, as the contract provides, during the period of ten years.

By judgment of the Board, dated November 23, 1907, the contract was approved of subject to the following conditions:—

1. That the charge of ten cents for each connection had over any telephone thereby leased with the Montreal exchange subscribers of the telephone company should be subject to alteration at any time by the Board.

2. That any extension of the term of the agreement after the expiration of ten years should be subject to the approval of the Board.

This disposition of the matter was not satisfactory to the telephone company, and a hearing was afterwards had, at which much evidence was given.

I have gone over this testimony, and I am clearly of the opinion that the disposition of the matter made by the Board in November last was correct and proper. I see no reason why an unqualified approval of the contract should be given; and the order approving the contract should include the above conditions.

Ottawa, May 13, 1908.

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APPENDIX E.

INFORMAL COMPLAINTS FILED WITH THE BOARD DURING THE YEAR
ENDING MARCH 31, 1909.

608. Condition of the road-bed of the Caraquet Railway between Chatham and Shippigan, New Brunswick.

609. Blocking of farm crossing one mile south of Thornhill, Ontario, by Grand Trunk Railway trains being left standing on the track.

610. Train service furnished by Grand Trunk Railway Company in the Cayuga, Ontario, district.

611. Unreasonable delay by the Canadian Pacific Railway Company in the handling of live stock in Alberta, and discrimination in the matter of personal transportation.

612. Refusal of the Grand Trunk Railway Company and Wabash Railroad Company to issue passenger tickets to travel over portions of the Grand Trunk Railway line operated by both companies which are available on either company's trains.

613. Discrimination by the Canadian Northern Railway in favour of the city of Winnipeg, Manitoba, on shipments to points on the Regina branch of the Canadian Northern Railway via Regina through Brandon to Winnipeg, Manitoba.

614. Unprotected condition of the Grand Trunk Railway Company's crossing directly east of Grand Trunk station, Bowmanville, Ontario.

615. Excessive express charged by the Canadian Northern Express Company on a return 'C. O. D.' shipment from North Battleford, Saskatchewan, to Toronto, Ontario.

616. Delay in settlement by Canadian Pacific Railway Company for loss of car-load of apples wrecked en route from Drumbo, Ontario, to Regina, Saskatchewan.

617. Excessive freight rates charged on cedar poles as compared with rates on lumber from Coe Hill to Toronto, Ontario.

618. Flooding of farm near Waterloo, Ontario, owing to the construction of the Guelph and Goderich Railway, and poor drainage provided.

619. Proposed increase in freight rates on ore shipments via Algoma Central and Hudson Bay Railway.

620. Advance in freight rates on timber and forest products by Grand Trunk Railway Company, contained in tariff 'C. F. 83,' 'C. R. C. No. E 1210,' issued at Montreal, Quebec, April 15, 1908, effective May 1, 1908.

621. Refusal of Canadian Pacific Railway Company to do certain work along right of way near Labelle, Quebec.

622. Delayed rebates by railways on ocean freight traffic.

623. Excessive freight rates charged by the Atlantic and Lake Superior Railway to and from Maria East, Quebec.

624. Excessive freight charges by Grand Trunk Railway Company on three cars of spruce lumber shipped from Whitney, Ontario, to Toronto, Ontario.

625. Loss of cattle on Canadian Pacific Railway near Ouimet, Ontario, and refusal of railway company to make settlement therefor, and to fence the right of way.

626. Rates and facilities of express companies on shipments of milk and cream.

627. Condition of trestle at the mouth of Stewart's brook, on the Atlantic and Lake Superior Railway at Ouimet, Ontario.

628. Excessive charge of Bell Telephone Company for long distance calls between Montreal and Quebec city, Quebec.

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629. Condition of roadbed on the Midland Railway, Manitoba, between Portage la Prairie and the United States boundary.

630. Excessive freight rates charged by the Grand Trunk Railway Company on a small touring car from Washington, D.C., to Toronto, Ontario.

631. Loss in transit via Canadian Northern Railway of moveable parts belonging to a log hauling engine shipped from Eau Claire, Wis., to Prince Albert, Saskatchewan.

632. Alleged unhealthy and unsanitary condition of railway stations in general, affecting the health of telegraph operators and employees within the stations.

633. Unsatisfactory train service on Canadian Pacific Railway to and from Macoun, Saskatchewan.

634. Refusal of the Midland Railway Company of Manitoba to pay wages to men on construction work.

635. Delay in the transportation of freight shipments from Gananoque, Ontario, to Yarmouth, Nova Scotia.

636. Failure on part of Canadian Pacific Railway Company to fence right of way at quarter section, $\frac{1}{2}$ lot 6, concession 3, township of Dorion, near Ouimet, Ontario.

637. Increased freight rates on lumber shipments from Brule lake, Ontario, to Ottawa, Ontario.

638. Overcharge on shipment of binder and harrow from point in the United States to Drinkwater, Saskatchewan.

639. Excessive telephone rates charged by Bell Telephone on calls between Braeside, Ontario, and Malloch's Mill, Ontario.

640. Freight rates on cattle via Grand Trunk Railway Company from Black Rock, Ontario, to Lindsay, Ontario.

641. Failure of the Canadian Pacific Railway Company to fence right of way of west half lot 2, concession 4, and east half lot 2, concession 5, township of Dorion, Ouimet, Ontario.

642. Loss of eighty cords of wood near Campbellville, Ontario, from ignition by spark from passing engine of railway.

643. Freight rates on the Orford, Mountain and Canadian Pacific Railways on lumber and grain shipments, to and from Kingsbury, Quebec.

644. Failure of Canadian Pacific Railway Company to fence right of way at southwest quarter No. 13, range 8, west 1st meridian, township 8, Rathwell, Manitoba, causing damage to crops by cattle entering farm property.

645. Inadequate settlement by Canadian Pacific Railway Company for right of way, Wolseley-Reston branch, northeast quarter section No. 32, township 13, range 7, west of 2nd meridian.

646. Loss of trunk delivered to Dominion Transport Co., Toronto, June 22, 1907.

647. Use of stamp by railways at Montreal, Quebec, on bills of lading for cheese shipments. 'Owner's risk of weather. Some boxes broken.'

648. Condition of drainage on right of way of Canadian Pacific Railway at South Gower, Ontario.

649. Freight rates on salt from Kincardine, Ontario, on Michigan Central Railway to Lake Erie and Detroit River Railroad points.

650. Carriage of lumber shipments via Ontario, Belmont and Northern Railway.

651. Condition of drainage along right of way of Canadian Pacific Railway near Crookston, Ontario.

652. Overcharge on carload of oats via Canadian Pacific Railway to Westport, Ontario.

653. Train service and shipping facilities on Grand Trunk and Wabash Railroads at Middlemiss, London and St. Thomas, Ontario.

654. Excessive charges of Dominion Express Company on a box shipped from Birnie, Manitoba, to Strasburg, Saskatchewan.

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655. Loss of one hundred acres of hay, one hundred and fifty fence posts at Cowley, Alberta, by fire started by passing engine of the Canadian Pacific Railway Company.

656. Excessive freight rates on coal charged by Canadian Northern Railway from Tabor, Alberta to Dalmeny, Saskatchewan.

657. Condition of approaches leading to tracks of Toronto, Hamilton and Buffalo Railway that cross concessions in township of Oakland, Ontario.

658. Width of road-bed and size of ditches provided in cuts in the Grand Trunk Pacific Railway in the province of Saskatchewan.

659. Freight rates on carbide and products from Shawinigan Falls to Sherbrooke, Quebec, and Sault Ste. Marie, Ontario.

660. Excessive switching charges of railways at Thorold, Ontario.

661. Unprotected state of the Canadian Northern Railway running through property in the vicinity of Makaroff, Manitoba.

662. Non-fencing of right of way of Canadian Northern Railway at the northeast quarter section 10-28-30, west of 1st meridian, near Togo, Saskatchewan.

663. Improper stock cars furnished by Michigan Central Railway for the shipment of hogs.

664. Freight rates charged by the Canadian Pacific Railway on cattle from Alberta points to Winnipeg, Manitoba.

665. Cattle killed along the right of way of the Canadian Pacific Railway near Canora, Saskatchewan, owing to non-fencing along the line of railway.

666. Overcharge on twelve cars of lumber from Arnprior, Ontario to Valleyfield, Quebec, via Grand Trunk Railway.

667. Condition of road-bed of the Canadian Pacific Railway in province of Alberta.

668. Condition of drainage along the right of way of the Grand Trunk Railway Company and Central Vermont Railway at lot No. 247, parish of St. Antoine de Longueuil, near St. Lambert, Quebec.

669. Unsatisfactory mail and train service on Canadian Pacific Railway to and from Midale, Saskatchewan.

670. Hours of labour of despatchers on Grand Trunk Railway District between Belleville and Brockville, Ontario.

671. Condition of Canadian Northern Railway from Dauphin, Manitoba, to the south bank of South Saskatchewan river.

672. Poor facilities provided by the Canadian Pacific Railway Company for the handling of hogs at Kenilworth, Ontario.

673. Excessive freight rates of Vancouver, Westminster and Yukon Railway on lumber shipped from Burnaby, British Columbia.

674. Excessive freight rates on shipments of sugar from Raymond, Alberta, via Canadian Pacific Railway and Alberta Railway and Irrigation Company.

675. Storage charges by Grand Trunk Railway on shipment of agricultural implements.

676. Freight rates charged by the Grand Trunk Railway on shipment of feed wheat from Girvin, Saskatchewan to Holstein, Ontario.

677. Excessive freight rates charged by Grand Trunk Railway on corn shipment from Chicago, Ill., via Chatham, to St. John, New Brunswick.

678. Poor train connections afforded by Grand Trunk Railway Company at Tilsonburg Junction, Ontario.

679. Insufficient car supply at Clinton, Ontario, for the movement of traffic to Oxbow, Saskatchewan.

680. Freight rates charged by the Canadian Pacific Railway Company from Montreal to Aylmer, Quebec.

681. Freight rates charged by the Canadian Northern Railway Company on ties in carloads to St. Boniface Transfer, Manitoba.

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682. Overcharge on shipment of hay on the Grand Trunk Railway from Mitchell and Harley, Ontario to Timagami, Ontario.

683. Overcharge on car of hay shipped by Canadian Pacific Railway from West Monkton to Timigami, Ontario.

684. Freight rates charged by Grand Trunk and Canadian Pacific Railway Companies on corn shipments from Chicago via Chatham to St. John, New Brunswick.

685. Unsatisfactory train connections of Grand Trunk Railway at Tilsonburg and Tilsonburg Junction, Ontario.

686. Excessive switching charges on Michigan Central Railroad at St. Thomas, Ontario.

687. Condition of drainage along right of way of Canadian Northern Ontario Railway near Barne's Bale, Ontario.

688. Condition of road-bed on Canadian Northern Railway between Tisdale and Melfort, Saskatchewan.

689. Freight rates of Grand Trunk Railway on pulp wood shipment from Pembroke, Ontario to Fulton, New York.

690. Refusal of Quebec Central Railway Company to accept bill of lading at D'Israeli, Quebec, on shipment consigned to private siding.

691. Unsatisfactory train connection between Canadian Pacific Railway and Temiscouata Railway.

692. Loss of cattle killed on right of way of Canadian Northern Railway near Langham, Saskatchewan.

693. Passenger rates on Quebec Central Railway from Lake Megantic to Ste. Cecile, Quebec.

694. Dangerous condition of farm crossing on Grand Trunk Railway at lot No. 33 in the township of Seneca, Ontario.

695. Switching rates of Canadian Northern Railway at Port Arthur.

696. Condition of highway crossing on Canadian Pacific Railway, west of Mountain Station.

697. Freight rates charged by railways on ingot tin in less than carload lots from Montreal, Quebec to London and St. Thomas, Ontario.

698. Requirements of railways that mileage tickets be presented at ticket office in exchange for passage tickets.

699. Flooding of property in front of town of Girvin, Saskatchewan, owing to Canadian Pacific Railway Company not putting in culvert.

700. Failure of the Grand Trunk Pacific Railway Company to settle for expropriated lands required for right of way in Fort Rouge, Manitoba.

701. Failure of the Grand Trunk Railway Company to provide station near the crossing of the middle line in the township of Somerville, Ontario, in accordance with agreement.

702. Overcharge on shipments on the Canadian Northern Railway from Winnipeg to Ninette, Manitoba.

703. Failure of the Canadian Northern Railway to plank two crossings in the vicinity of Quill Lake, Saskatchewan.

704. Closing of telegraph office by Canadian Pacific Railway and Great Northwestern Telegraph Companies, Colborne, Ontario.

705. Shortage of grain, lost in transit over railways.

706. Overcharge on shipment of freight on the Canadian Pacific Railway from Edmonton, Alberta to Vancouver, British Columbia.

707. Failure of the Canadian Northern Railway to construct the Goose Lake branch in the province of Saskatchewan.

708. Damage to household furniture shipped by Canadian Pacific Railway from Edenland, Saskatchewan, to a point in Manitoba.

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709. Loss in transit of 175 bushels of grain shipped by Canadian Pacific Railway from Gainsboro', Saskatchewan, to Fort William, Ontario, and refusal of railway to settle therefor.

710. Shortage in shipment of car of rye flour from Delhi, Ontario, to Montreal, Quebec. Also damage to goods caused by shunting.

711. Condition of crossing of Canadian Pacific Railway Company between town of Arcola and town site of Kisbey, Saskatchewan.

712. Condition of culvert on the Central Ontario Railway near Eldorado, Ontario.

713. Condition of road-bed of Canadian Northern Railway running through Melfort county, to Prince Albert, Saskatchewan.

714. Excessive rates of Grand Trunk Railway on shipment of oats from Kingston, Ontario, to Boston, Massachusetts, as compared with rates from Georgian Bay points.

715. Refusal of Canadian Pacific Railway to sell second class tickets from Dubuc, Saskatchewan, to Toronto, Ontario.

716. Excessive freight rates on the Lake Erie and Detroit Railway on shipment of salt from London, Ontario, to Clamworth, Ontario.

717. Refusal of the Grand Trunk Railway Company to allow commissions on tickets sold for excursions to Sarnia, Ontario.

718. Dangerous condition of the Canadian Pacific Railway at Duncan, British Columbia, and request that an automatic signal be provided.

719. Extra charge on Grand Trunk Railway Company for stop-over privilege on cheese shipments.

720. Failure of the Canadian Northern Railway Company to erect fence and put in proper crossings over ditches and gates at section 14-13-1 west.

721. Delay in delivery of shipment of nursery stock forwarded via Toronto, Hamilton and Buffalo Railway Company to St. Louis station, L'Islet county, Quebec.

722. Estimated weights charged on three head of cattle from Sussex, New Brunswick, to Perth, Ontario.

723. Dangerous condition of crossings of the Grand Trunk and Michigan Central Railroads in the town of Welland, Ontario.

724. Refusal of the Canadian Northern Quebec Railway to put its rails on a level with the streets and to build sidewalks at the crossings in the town of Masionneuve, Quebec.

725. Excessive freight charges on Grand Trunk Railway on green salted hides from Montreal to St. Catharines, Ontario.

726. Delay in construction of Canadian Northern Railway Dalmeny-Carlton extension.

727. Closing of certain streets in the town of Alliston, Ontario.

728. Condition of road leading to freight station of the Canadian Pacific Railway, and damage to goods on account of station platform being too high.

729. Accommodation afforded to the public by the Canadian Pacific Railway Company on the Macleod branch.

730. Length of hours of conductors on the Grand Trunk Pacific Railway, west of Portage la Prairie, Manitoba.

731. Failure of Canadian Pacific Railway Company to establish freight rates to and from Fry's station, Saskatchewan, to stations between Antlers and Redvers.

732. Running of trains by the Canadian Pacific Railway Company without proper inspection from divisional points in the west.

733. Construction of St. Mary's and Western Ontario Railway through lands of property owners at St. Mary's, Ontario, without authority.

734. Dangerous condition of crossing at Canadian Pacific Railway at station at Mission Junction, British Columbia.

735. Running of trains by Canadian Pacific Railway without proper inspection at terminals, and engines without proper braking appliances.

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736. Excessive freight rates of the Great Northern Railway on shipments of cedar poles from Creston, British Columbia.

737. Overcharge on shipments of hardwood lumber via Canadian Pacific Railway Company from St. Agathe and Lachute, Quebec.

738. Inefficient train service on Canadian Northern Quebec Railway between Quebec and Montreal; also poor station accommodation at Garneau, Heronville and St. Tite, Quebec.

739. Delay in delivery of shipment of spruce seedlings forwarded by the Canadian Pacific Railway Company from Grenfell, Saskatchewan, to Strasburg, Saskatchewan.

740. Excessive whistling of engines on Canadian Pacific Railway at night between Quebec station and Dorchester street, Quebec.

741. Excessive freight rates of Grand Trunk and Canadian Pacific Railway Companies on grain shipments from Kingston, Ontario, to New Brunswick and Nova Scotia points, as compared with rates from Georgian bay.

742. Excessive noise caused by operation of moving cars and engines on the Grand Trunk, Canadian Pacific and Ottawa and New York Railways at Ottawa, Ontario.

743. Dangerous railway crossing of Grand Trunk and Kingston and Pembroke Railways opposite barracks at Kingston, Ontario.

744. Excessive passenger rates charged by the Windsor, Essex and Lake Shore Rapid Railway Company.

745. Refusal of the Pere Marquette Railway Company to carry passengers on way-freight trains.

746. Condition of trains and accommodation of stations on the Canadian Northern Quebec Railway between Maisonneuve and St. Paul l'Ermite, Quebec.

747. Dangerous condition of road-bed and rolling stock Grand Valley Electric Railway between Brantford and Galt, Ontario.

748. Condition of the Canadian Northern Ontario Railway bridges between Rainy River and Port Arthur, Ontario.

749. Failure of the Canadian Pacific Railway Company to construct its line between Hardisty and eastern boundary of Alberta.

750. Dangerous points on Brennan's siding, Grand Trunk Railway Company, position of electric light poles on northwest corner of Kelly street and Ferguson avenue, Hamilton, Ontario.

751. Running of Canadian Pacific Railway Company's trains in and out of Vancouver, British Columbia, without proper inspection.

752. Unsatisfactory mail service on Canadian Northern Railway between Neepawa and McCreary, Manitoba.

753. Dangerous condition of road-bed of the Central Vermont Railway.

754. Train service of the Grand Trunk Railway Company on Port Perry and Whitby branch.

755. Non-fencing of right of way of the Canadian Northern Railway near Eldon, Manitoba.

756. Fencing of road allowance between concessions 2 and 3 in township of Tay, east of Midland, Ontario, by Grand Trunk Railway.

757. Condition of culvert on the Canadian Northern Ontario Railway near James Bay Junction, Ontario.

758. Excessive whistling of trains by Canadian Pacific Railway Company's engines at Almonte, Ontario.

759. Loss of cattle on the Canadian Pacific Railway near Cowley, Alberta, from inefficient cattle guards.

760. Unsatisfactory drainage on the Canadian Pacific Railway at Louisville, Quebec.

761. Condition of passenger coaches on the Ottawa and New York Railway.

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762. Condition of highway crossings of Canadian Pacific, Grand Trunk and Canadian Northern Ontario Railway Companies in township of Foley, Ontario.

763. Condition of culvert on Grand Trunk Railway at lot 20, township of London, Ontario.

764. Refusal of Grand Trunk Railway to refund overcharge on shipment of lumber from Toronto, Ontario.

765. Treatment accorded passengers by conductor on Grand Trunk Railway train No. 33, from London, September 15, 1908.

766. Excessive freight charges by Canadian Pacific Railway on shipment from Frankfort, Ontario, to Montreal, Quebec.

767. Dangerous condition of roadway on Canadian Pacific Railway near Dominion Copper Company's smelter, Boundary Falls, British Columbia.

768. Order issued by the Grand Trunk Railway Company that train No. 1 shall not stop at Thousand Island station junction, Ontario.

769. Excessive freight rates of the Canadian Northern Quebec Railway, Quebec, Lake St. John Railway Companies on a through shipment.

770. Refusal of the Canadian Pacific Railway Company to make an allowance for breakage of goods in transit.

771. Condition of farm undercrossing of Canadian Pacific Railway Company at lot No. 19, concession 2, township of London, Ontario.

772. Excessive delay of railway companies in repayment to shippers of grain for lumber supplied for car doors.

773. Loss of shipment of household effects from Spokane, Washington, to Claresholm, Alberta, via Intercolonial Railway.

774. Excessive freight rates charged by the Canadian Pacific Railway Company on shipments of grain to and from Guernsey, Saskatchewan, to the terminal elevators on the great lakes.

775. Crossings of the Canadian Northern Railway, Oak Point branch at Warren, Ontario.

776. Inability of residents of Wainwright, Alberta, to transmit messages over telegraph wires of the Grand Trunk Pacific Railway.

777. Excessive freight rates charged on Canadian Pacific Railway on pulpwood from St. Stephens to Milltown, New Brunswick.

778. Excessive charges of the Dominion Express Company in Winnipeg, Manitoba, for the carriage of newspapers.

779. Drainage of right of way of Canadian Pacific Railway Company through farm near the village of Portneuf, Quebec.

780. Condition of farm crossing on Canadian Northern Quebec Railway in village of Portneuf, Quebec.

781. Dangerous condition of crossing on the Grand Trunk Railway near Fergus, Ontario.

782. Condition of highway crossing on the Thessalon and Northern Railway, east of road in township of Thessalon, Ontario.

783. Freight rates on sand and gravel from York to Toronto, Ontario, via Grand Trunk Railway.

784. Delay in delivery by railways of shipments of coal at Elstow, Saskatchewan.

785. Failure of the Canadian Northern Railway to erect fences on southwest quarter, section 13 township of Morley, Rainy River district, Ontario.

786. Insufficient supply of cars by railways for the movement of wheat from Redvers, Saskatchewan.

787. Refusal of Grand Trunk Railway Company to rectify error in billing a car of coal to Toronto, Ontario.

788. Closing by Canadian Pacific Railway Company of certain streets in the village of Coteau Junction, Quebec.

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789. Failure of the Brandon, Saskatchewan and Hudson Bay Railway to fence the right of way opposite farm property at Wakopa, Manitoba.

790. Overcharge of \$4.95 on shipment of brick from St. Polycarpe to Dorval, Quebec, by Canadian Pacific Railway Company.

791. Construction of Grand Trunk Pacific Company across property in Hurry, Alberta, severing six to ten acres and making a deep cut through the property and throwing waste dirt over the adjoining land.

792. Overcharge of \$18 (eighteen) on shipment of dog by Dominion Express Co., from Winnipeg, Manitoba to Sudbury, Ontario.

793. Failure of the Brandon, Saskatchewan and Hudson Bay Railway to fence the right of way on northeast quarter section No. 13-4-20, Manitoba.

794. Construction by Canadian Pacific Railway Company of wagon road across property at Strathcona, Alberta.

795. Excessive freight rates charged by the Canadian Pacific Railway Company on shipment of pulpwood from Corbeil to Hawkesbury, Ontario.

796. Dangerous condition of public crossing of Canadian Pacific Railway Company at the town line between South Gower and Oxford, Ontario; also unsatisfactory condition of farm crossing.

797. Excessive freight rates on shipments of fence wire from Portage la Prairie, Manitoba.

798. Dangerous crossing of Canadian Pacific Railway Company at range 27, mile 85.5 in the town of Claresholm, Alberta.

799. Excessive freight charges by the Canadian Pacific Railway and Canadian Northern Railway Companies on bulkhead cars of grain from western points to Port Arthur and Fort William, Ontario.

800. Damage to property by the Central Ontario Railway and removal of material without the consent of the owner at Maynooth, Ontario.

801. Injury to horse at public crossing at Forest Station, Manitoba, on the Grand Trunk Pacific Railway.

802. Stop-over charge of the Grand Trunk Pacific and Canadian Pacific Railway Companies at Sarnia tunnel on lumber shipments.

803. Damages to property at St. Paulin, Quebec, by diverting of water course by the Canadian Northern Quebec Railway Company.

804. Freight rates charged by the Canadian Pacific Railway Company on shipments of grain to Montreal and New Brunswick points.

805. Inability of industry at Kemptville, Ont., to recover from Canadian Pacific Railway Company money paid out by parties in regard to private sidings.

806. Shunting on the Hamilton Railroad by London and Port Stanley Railway Company, operated by the Pere Marquette Railway Company.

807. Failure of the Canadian Northern Railway Company to fence right of way through section 32-19-21 west 2nd meridian, near Lumsden, Saskatchewan.

808. Closing of crossing near village of Nashville, Ontario, by Canadian Pacific Railway Company.

809. Shortage in delivery on shipment of household goods forwarded by the Canadian Northern, Canadian Pacific and Grand Trunk Railway Companies from Rainy River to Gravenhurst, Ontario.

810. Failure of the Canadian Pacific Railway Company to move grain shipment from Grannan, Alberta.

811. Proposed closing of station on Canadian Northern Railway at Borden, Saskatchewan.

812. Failure of the Canadian Northern Railway Company to fence its right of way at the northeast quarter section No. 21, township 19, range 21, west 2nd meridian.

813. Insufficient car supply by the Canadian Pacific Railway Company for the movement of traffic from Glenboro, Manitoba.

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814. Excessive passenger rates on the Canadian Pacific Railway between Hanover and Walkerton, Ontario.

815. Inadequate car supply by Canadian Pacific Railway Company for movement of grain from Belle Plains, Saskatchewan.

816. Refusal of the Canadian Northern Railway to pay for lands taken for right of way at Blackfoot Hill, Alberta.

817. Refusal of the Canadian Pacific Railway to permit third party to use private siding at Outremont, Quebec.

818. Failure of the Canadian Pacific Railway Company to pay for lands taken at Brookdale, Manitoba, for the construction of McGregor-Varcoe branch.

819. Condition of drainage on the right of way of the Guelph and Goderich Railway through lot 4, concession 9, township of Morris, Ontario.

820. Change of time table on Halifax and Southwestern Railway between Middleton and Bridgewater, Nova Scotia.

821. Delay by Canadian Northern Railway Company in constructing and opening for traffic of Goose Lake branch.

822. Restriction placed by the Dominion Express Company on the carriage of furs to Great Britain by charging excessive express rates for insurance of goods.

823. Failure of the Canadian Northern Ontario Railway Company to provide drainage to carry off surface water opposite lots 28 and 29, concession 6, township of McDougal, Ontario.

824. Condition of fences, station accommodation for the handling of express and freight, also lack of an agent at Fruitvale, British Columbia, on the Great Northern Railway.

825. Insufficient car supply by Canadian Pacific Railway for the movement of traffic at Parkland, Alberta.

826. Refusal of the Grand Trunk Railway Company to permit installation of telephones in passenger and freight stations at certain stations in province of Quebec.

827. Hours of duty of trainmen employed on the Canadian Northern Ontario Railway, Rainy River district.

828. Reduction of train service between Bannockburn and Tweed, Ontario, on Bay of Quinté Railway.

829. Inadequate car supply for the movement of live stock on the Canadian Pacific Railway Company from Cowley, Alberta.

830. Excessive freight rates and minimum carload weight on fruit shipments from Peachland, British Columbia, to Victoria, British Columbia, on the Canadian Pacific Railway.

831. Condition of swing bridge on the Grand Trunk Railway over Galops canal in the village of Cardinal, Ontario.

832. Inadequate car supply by the Canadian Pacific Railway Company at Frys and Antlers stations, Saskatchewan.

833. Damage in transit to household effects shipped by the Canadian Pacific Railway Company from Worcester, Massachusetts, to Moosejaw, Saskatchewan.

834. Inadequate facilities for the reception of freight and express matter at Beloeil, Quebec.

835. Condition of drainage on the Quebec, Montreal and Southern Railway near Picton to Smith's Falls, Ontario.

836. Stop-over charge on the Canadian Pacific Railway Company at Cartier, Ontario.

837. Excessive rates on the Canadian Pacific Railway on shipment of apples from Picton to Smith's Falls, Ontario.

838. Excessive rates charged by the Grand Trunk for switching of car of soft coal at Hagersville, Ontario.

839. Refusal of the Canadian Pacific Railway Company at Kamloops, British Columbia, to carry trunk as freight unless boxed.

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840. Excessive charges of the express companies in western provinces.

841. Overcharge amounting to \$884.01 collected by the Grand Trunk Railway Company on a shipment of sand and gravel from Niagara Falls to Welland, Ontario.

842. Dangerous condition of crossing on the Canadian Pacific Railway in the township of Bentinck, county of Grey, at 2nd concession.

843. Damage by the Central Ontario Railway to property at Maynooth, Ontario, by fire.

844. Excessive rates charged by the Canadian Northern Railway for warehousing carload of wheat consigned to Port Arthur, Ontario.

845. Objections to plan of proposed subway on the Grand Trunk Pacific Railway at highway crossing, northeast quarter of 15-53-24 W. 4.

846. Poor train service on the Canadian Pacific Railway to and from Mayook, British Columbia.

847. Loss in shipment of photo tent forwarded via Canadian Northern Express Company from Lanigan to Battleford, Saskatchewan.

848. Loss of four horses on right of way of the Canadian Pacific Railway Company at Arcola, Saskatchewan.

849. Dangerous condition of Canadian Pacific Railway crossing Main street, Hamilton street, Kenora, Ontario.

850. Misleading information furnished by the Canadian Pacific Railway Company's agent at Lyleton and Brandon, Manitoba, to travelling public.

851. Freight rates on ore shipments by Grand Trunk Railway in favour of United States smelters.

852. Extra charge levied by Dominion Express Company on returned empty lobster cans between Detroit and Atlantic coast points.

853. Delay in delivery of freight shipments at Cobalt, Ontario, and British Columbia points.

854. Failure of the Canadian Northern Railway to make settlement for property taken for railway purposes at township 33, range 10, section 16, west third meridian, near Tessier, Saskatchewan.

855. Freight rates of Canadian Pacific Railway Company on oats to points on the Toronto, Sudbury branch and main line Bisco to North Bay, Ontario.

856. Placing of power wires across tracks of the Canadian Pacific Railway in the vicinity of Lachine canal swing bridge without authority of board.

857. Damage caused by delay in delivery of shipment of baggage by Canadian Pacific Railway to Vancouver, British Columbia.

858. Failure of the Thousand Islands Railway to deliver consignment of bolts shipped from Gananoque, Ontario, to the National Transcontinental Railway at Cochrane on the Temiscouta and Northern Ontario Railway.

859. Excessive freight rates charged by the Canadian Pacific Railway companies on cartons shipped from Trois Rivières, Quebec, to St. John, New Brunswick.

860. Excessive rates charged by express companies on shipment of fresh fish from Meaford to London, as compared with the rates from Meaford to Toronto, Ontario.

861. Loss sustained by shippers on goods forwarded from Edmonton, Alberta, to flag station on the Canadian Northern Railway near Brudenheim, Alberta.

862. Taking up of planking by the Grand Trunk Railway Company from farm crossing known as the east half lot 43, 6th concession, County Wainfleet.

863. Dangerous and non-protected highway crossing in the vicinity of Swift Current, Saskatchewan.

864. Rates on shipment of freight from Detroit, Michigan to Western Ontario points, as covered by tariff E. 874 effective September 15, 1908.

865. Removal of agent by Canadian Pacific Railway from Kelloe, Manitoba.

866. Increased rates on the Canadian Pacific Railway on bricks, C. L., Casselman, Ontario to Montreal, Quebec.

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867. Poor train service of Canadian Pacific Railway between Lauder and Tilston, Manitoba.

868. Condition of the approaches to the wharf at North Bay, Ontario.

869. Delay in running of trains of the Canadian Pacific Railway on the North Shore branch between Montreal, Quebec and Ottawa, Ontario.

870. Overcharge on shipment of settlers' effects forwarded via Canadian Pacific Railway from Mount Forest, Ontario, to Moosejaw, Saskatchewan.

871. Discontinuance by railways of service of heated cars from points in the province of Quebec in the winter months for the shipment of perishable goods.

872. Condition of highway crossing and lack of sufficient number of crossings, District of Nutana, Saskatchewan, on the Canadian Northern Railway.

873. Excessive express charges on shipments of cream to Montreal, Quebec.

874. Inadequate car supply for the shipment of grain from Weyburn, Saskatchewan.

875. Inadequate car supply by railways in Alberta for the movement of hay and grain shipments.

876. Failure of the Canadian Northern Railway to compensate for lands taken for right-of-way over southwestern section 37-27-29, near Dauphin, Manitoba.

877. Condition of fire guards and defective equipment of locomotives on railways in the western provinces.

878. Switching charges on the Grand Trunk Railway at Milton, Ontario.

879. Switching charges on the Canadian Pacific Railway on goods from steamship at West St. John to industries at a distance of $4\frac{3}{4}$ miles.

880. Crossing of the Canadian Pacific Railway at Mill street in the town of Enderby, British Columbia.

881. Inadequate train service Quebec, Montreal and Southern Railway between Longueuil and Montreal, Quebec.

882. Inadequate culvert on the Canadian Pacific Railway near Allan Park, Ontario.

883. Erection of fences on southern portion of land at Iberville Junction, Quebec, by Canadian Pacific Railway, causing accumulation of snow.

884. Poor accommodation and lighting of cars on the Quebec Railway Light and Power Company, to St. Joachims, Quebec.

885. Excessive rates charged by the Canadian Pacific Railway and Canadian Northern Ontario Railway Companies on car of lumber from Parry Sound to Ingersoll, Ontario.

886. Loss on two head of cattle on the Canadian Pacific Railway near Fordwich, Ontario, owing to inefficient cattle guards.

887. Placing of telephone wires across tracks of the Grand Trunk Pacific Railway by the municipalities of Miniota and Hamiota, Manitoba, without the authority of the Board.

888. Excessive freight rates charged by the Dominion Atlantic Railway and Steamship Company on live lobsters from Yarmouth, Nova Scotia, to Boston, Massachusetts.

889. Overcharge by the Grand Trunk Railway Company on shipment of lumber from Cache bay to Oakville, Ontario.

890. Condition of fences along right of way of railways near Ashville, Manitoba.

891. Overweight on shipment of hay by the Canadian Pacific and Grand Trunk Railway Companies from Seaforth, Ontario.

892. Excessive charges and inefficient service by express companies on shipments of fish from Wheatley, Ontario, to New York city.

893. Excessive freight rates by Canadian Pacific Railway Company on car of horses from Pincher Creek, Alberta, to Spokane, Washington.

894. Freight rates charged by railways on corn shipments from Chatham, Ontario.

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895. Excessive freight rates charged by Ottawa and New York Railway Company on shipments of drugs and tea to Newington, Ontario.

896. Proposed increase by express companies in the charges for returned empty cases to Arnprior, Ontario.

897. Practice of Grand Trunk Railway Company of removing planking at farm crossing near Cayuga, Ontario, during winter months.

898. Removal of planking on Canadian Pacific Railway on the Souris branch in the municipality of Oakland, Manitoba.

899. Excessive freight rates charged by the Pere Marquette Railway on milk shipment from Harrow to Windsor, Ontario.

900. Inadequate car supply by the Canadian Pacific Railway Company on shipments of grain from Belleplains, Saskatchewan.

901. Irregularity in freight and passenger rates on the Vancouver, Victoria and Eastern Railway Company involving unjust discrimination in favour of points in state of Washington.

902. Inadequate car supply of stock cars for the movement of stock shipments by railways in Alberta, and refusal to supply planks to spike across doorway of such cars.

903. Poor accommodation furnished by the Grand Trunk Railway on trains to and from Hawkesbury, Ontario.

904. Failure of the Canadian Pacific Railway to provide station agent or operator at Hirsch, Saskatchewan.

905. Failure of the Canadian Northern Quebec Railway to keep open the station at St. Cuthbert, Quebec, for the arrival and departure of trains.

906. Excessive freight rates on Canadian Pacific Railway in the district of Sunbury, New Brunswick.

907. Length of hours of railway employees on the Canadian Pacific Railway in Alberta.

908. Negligence of the Canadian Northern Railway Company to provide suitable crossing fences and cattle guards on its Winnipegosis and Swan River sections.

909. Complaint about the Grand Trunk Company's siding crossing the highway at Caledon east, in the township of Albion, Ontario.

910. Rates on the Vancouver, Victoria and Eastern Railway on shipments to points in Manitoba.

911. Additional charges by Dominion and Canadian Express Companies on shipments to residents of Ossington, Concord and Delaware avenues and government road, Toronto, Ontario.

912. Refusal of Eastern Canadian Passenger Association to grant special rates in connection with the Montreal carnival of winter sports.

913. Overcharge by the Canadian Pacific Railway Company on shipment of Percheron stallion from Minnesota Transfer to Gleichen, Alberta.

914. Overcharge of freight on tank cars of oil on which railway companies have refused to give through rate from Philadelphia, Pennsylvania, to Toronto, Ontario.

915. Excessive express rates and inadequate connection between competing lines of railway in Muskoka district.

916. Limit of liability of railways on shipments of racing horses.

917. Express rates charged on shipment to and from Port Arthur, Ontario.

918. Express rates on shipment of fish from Nipigon Bay, Ontario.

919. Long hours of express messengers and other employees of express companies.

920. Alleged discrimination in rates by express companies on shipments of printed matter from Toronto, Ontario.

921. Express rates on fruit shipments from Burford, Ontario.

922. Express rates on shipment to and from Kenora, Ontario.

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923. Proposed increase in express rates on returned empties to Sudbury, Ontario, from January 1, 1909.

924. Express rates charged on shipment to and from Clarksburg, Ontario.

925. Express rates on shipment to and from Halifax, Nova Scotia.

926. Increased rates by express companies on returned empties to Toronto, Ontario.

927. Failure of the Canadian Northern Railway to fence right of way northwest quarter section 26-19-22 west 2nd meridian.

928. Danger to the public and train crews on railways through the use of ordinary snow ploughs on engines.

929. Transportation facilities afforded by railways for the movement of live stock in Alberta.

930. Rates of the Canadian Express Company on shipment from Charing Cross, Ontario, to Blairmore, Ontario.

931. Loss of cattle on right of way Canadian Northern Railway near Scarth, Manitoba, and erection by the company of a snow fence in that district.

932. Loss of lumber shipped via Canadian Pacific Railway from Irish Creek to Chesterville, Ontario.

933. Freight rates charged by the Atlantic and Lake Superior Railway on shipment from Point Levis to Caplan, Ontario.

934. Freight rates charged by the Michigan Central Railroad on shipments of hogs from Alviston and Brigden, Ontario, to Ingersoll, Ontario, as compared with the rates to Toronto, Ontario.

935. Closing of the station at Osage, Saskatchewan, by the Canadian Pacific Railway.

936. Unsatisfactory condition in regard to the shipment of perishable goods by the Canadian Northern Railway during the winter months from Prince Albert, Saskatchewan.

937. Express charges on shipments of fruit and vegetables from Leamington, Ontario.

938. Excessive rates charged on balate and crude rubber to Montreal, Quebec.

939. Extension of time allowed the Canadian Pacific Railway for the construction and completion of its line to Dauphin, Manitoba.

940. Delivery service of the Canadian Northern Telegraph Company on a message to Prince Albert, Saskatchewan.

941. Non-protected condition of the Canadian Pacific Railway, and defective state of fences in the vicinity of Limbreck, Alberta.

942. Inadequate train service of the Canadian Pacific Railway to and from Erindale, Ontario.

943. Flooding of lands near Zephyr, Ontario, from inadequate drainage provided by the Canadian Northern Ontario Railway.

944. Unsatisfactory classification for shipment of cheese box stock.

945. Insufficient protection provided by the Canadian Pacific Railway in the matter of cattle guards in the District of Sapperton, British Columbia.

946. Poor service furnished by the Canadian Pacific Railway over spur tracks in vicinity of Estevan, Saskatchewan.

947. Inadequate protection of level crossing in the township of Brantford, Ontario.

948. Abrupt changes made by railways in long standing rates and regulations generally.

949. Excessive rates of the Pere Marquette Railroad on shipments of beet sugar from Wallaceburg, Ontario, to St. Paul, Minnesota.

950. Excessive freight rates on the Intercolonial Railway on consignment of castings from Sackville to St. John, New Brunswick.

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951. Failure of the Canadian Pacific Railway and Canadian Northern Railway, to employ sufficient operators for the operation of trains in the west.

952. Overcharge on tow boats shipped from South Temiskaming, Ontario to Latchford, Ontario, by the Canadian Pacific Railway.

953. Excessive freight rates on the Quebec, Montreal and Southern Railway on shipments of stone from Mount Johnson and Stanstead, Quebec.

954. Train service of the Canadian Pacific Railway between Smith's Falls and Vaudreuil, Quebec.

955. Train service of the Canadian Pacific Railway between Dixie, Ontario and Toronto, Ontario.

956. Loss of cattle on Canadian Pacific Railway right of way near Barnet, British Columbia, on account of fences being down.

957. Excessive freight rates of the Atlantic and Lake Superior Railway, from Caplan Station, Quebec to Meguacha Point, Quebec.

958. Refusal of railways to supply box cars for shipment of pulpwood in the Eastern Townships.

959. Inadequate arrangements by the Dominion Express Company for the handling of express traffic at Cobalt, Ontario.

960. Construction of fences along right of way of the Pere Marquette Railroad in the township of Raleigh, Ontario.

961. Excessive freight rates charged by the Grand Trunk Railway on salt shipments from Windsor to Kingston, Ontario.

962. Excessive express rates on shipments between points in the maritime provinces.

963. Equipment of suburban railways in the vicinity of Hamilton, Ontario.

964. Overcharge by the Canadian Pacific Railway on consignment of imported liquor from Fort William, Ontario, to Winnipeg, Manitoba.

965. Train service of the Canadian Pacific Railway at Sharbot Lake, Ontario.

966. Excessive freight rates, lack of fences and inadequate cattle guards on the right of way of the Canadian Pacific Railway in the province of Alberta.

967. Excessive freight rates of the Atlantic, Quebec and Western Railway on shipment of car machinery from St. Hyacinthe to Caplan, Quebec.

968. Dangerous condition of crossing on the Grand Trunk Railway, known as the Carrington road, just west of Belleville station, Ontario.

969. Dangerous condition of crossing on the Grand Trunk Railway in the village of Burlington, Ontario.

970. Obstruction of water course by the Grand Trunk Railway in the vicinity of Grenfell, Saskatchewan.

971. Operation of Montreal Park and Island Railway line in Mount Royal ward, Montreal, Quebec.

972. Proposed increase of freight rates by railways on sad irons.

973. Proposed location of the Canadian Pacific Railway between Coldwater and Peterborough, Ontario, and station at Brechin, Ontario.

974. Shortage in shipment of two cars of coal to Guelph, Ontario, via the Grand Trunk Railway.

975. Failure of the North American Telegraph Company to furnish connections and agreement to interchange of telephone business at Hopetown, Ontario.

976. Condition of drainage of the Grand Trunk Railway in the township of Ops, Ontario.

977. Overcharge by the Grand Trunk Railway on consignment of eggs to Montreal, Quebec.

978. Inadequate telephone service in the township of Govan and the township of South Monaghan, Ontario.

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979. Condition in and around the station of the Canadian Pacific Railway at Canmore, Alberta.

980. Loss of oxen through non-erection of fences on the right of way of the Canadian Northern Railway opposite section 23, township 38, range 26, west of the second meridian, near Dana, Saskatchewan.

981. Express rates of the Canadian Northern Express Company on shipment from Winnipeg, Manitoba, to Lumsden, Saskatchewan.

982. Loss to shippers of live stock in the province of Alberta, through alleged irregularities, difficulties and uncertainties connected with transportation of live stock in the west.

983. Refusal of the Canadian Pacific Railway to allow meat shippers at Calgary, Alberta, to make shipments to other provinces.

984. Railway facilities in and out of Simcoe, Ontario.

985. Proposed location of Esquimault and Nanaimo Railway on lot 127, Comox district, British Columbia.

986. Express rates on calcium carbide by Canadian and Dominion Express Companies from St. Catharines to Massey, Ontario.

987. Excessive freight rates on hay, grain, straw and farm produce via Great Northern Railway in eastern British Columbia.

988. Excessive freight rates of the Canadian Pacific Railway on shipment of horses from St. John, New Brunswick, to Olds, Alberta.

989. Delay in movement of freight traffic and overcharge in weights on shipment by Canadian Northern Quebec Railway and Quebec and Lake St. John Railway.

990. Excessive rates charged by the Dominion Express Company on shipment of corsets from Quebec to Vancouver, British Columbia.

991. Excessive freight rates on corn shipments from Michigan Central Railroad and Pere Marquette Railroad points.

992. Poor train service of the Grand Trunk Railway to and from Watford, Ontario.

993. Blocking of tracks at crossing by cars of Grand Trunk Railway at Coteau Junction, Ontario, and also treatment of passengers at station by employees of the railway.

994. Closing of the Canadian Pacific and Great Northwestern Telegraph offices in the village of Buckingham, Quebec.

995. Poor station accommodation of the Canadian Pacific Railway at Elkhorn, Manitoba.

996. Loss of household effects shipped by the Canadian Pacific Railway from Winnipeg, Alberta to Fernie, British Columbia.

997. Unsatisfactory service of the Canadian Northern Telegraph Company at Prince Albert, Saskatchewan.

998. Excessive freight rates of the Canadian Pacific Railway on six cars of bricks from Milton to Bala, Ontario.

999. Extra charge of ten cents by the Grand Valley Railway for tickets purchased on trains.

1000. Private telephone rates furnished by the Bell Telephone Company at Montreal, Quebec.

1001. Switch lights and conditions of engine No. 21 on Prince Albert-Regina branch of the Canadian Northern Railway Company.

1002. Loss of furniture shipped by freight and refusal of the Toronto, Hamilton and Buffalo Railway and the Michigan Central Railway to compensate therefor.

1003. Refusal of the Grand Trunk Railway to remove snow off private siding at Mile End, Quebec.

1004. Train service on the Quebec Southern Railway between Sorel and St. Hyacinthe, Quebec.

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1005. Unauthorized connection of the Vancouver, Victoria and Eastern Railway at Danville, Midway and Myncester, also discrimination in tariffs of tolls between Princeton and Drumbo, British Columbia.

1006. Excessive freight rates of the Quebec and Lake St. John Railway on shipment between Quebec and Rivière à Pierre, Quebec.

1007. Refusal of the Windsor, Essex and Lake Shore Rapid Railway to extend time for the use of commutation tickets.

1008. Loss of horses on right of way of the Canadian Pacific Railway between sections 15 and 16, Township 7, range 10, west of the 2nd meridian, on account of fences being down near Wolseley, Saskatchewan.

1009. Excessive freight rates of the Canadian Pacific Railway on vegetable shipments from Frankline to Winnipeg, Manitoba.

1010. Failure of the Grand Trunk Pacific Railway to provide proper farm crossing on farm near Nokomis, Saskatchewan.

1011. Excessive freight and express rates on the products of farm and orchards at Kamloops, British Columbia.

1012. Obstruction to free navigation of watercourse of Victoria Harbour, caused by swing bridge giving access to railway depot, Victoria, British Columbia.

1013. Lack of accommodation furnished by the Canadian Pacific Railway between Burton and Edgewood on Arrow Lakes, British Columbia.

1014. Minimum weights in carloads on export freight traffic.

1015. Excessive switching charges of the Canadian Northern Railway and Canadian Pacific Railway between Canadian Northern Railway siding and Canadian Pacific Railway siding at Winnipeg, Manitoba.

1016. Excessive switching charges of the Canadian Northern Railway and Canadian Pacific Railway on grain from Canadian Northern Railway points to elevators on the Canadian Pacific Railway at Winnipeg, Manitoba.

1017. Poor condition of fences and cattle guards on railways in the province of Manitoba.

1018. Failure of telegraph company to indicate time on blanks when messages are received for transmission at Winnipeg, Manitoba.

1019. Loss of horses and cattle killed on the Canadian Pacific Railway tracks near Miniota, Manitoba, through removal of cattle guards from crossing.

1020. Loss of horses killed by wreck on railway near Laurier, Manitoba.

1021. Stamping by railways at Halifax, Nova Scotia, on bills of lading, the clause 'Loaded by Shippers.'

1022. Proposed location of the Canadian Pacific Railway from Victoria Harbour to Peterborough, Ontario, on property near Hartley, Ontario.

1023. Loss of cattle killed on right of way of the Canadian Pacific Railway at Chaplin, Saskatchewan.

1024. Excessive express rates on shipments to and from Fenwick, Ontario.

1025. Accommodation afforded by the Grand Trunk Railway at Port Dover, Ontario.

1026. Practice of railway companies charging ticket agents \$1 for failure to stamp a ticket purchased at station or town office.

1027. Excessive express rates to and from Nanton, Alberta.

1028. Failure of the Canadian Northern Railway to supply fuel for heating station at Brimkild, Manitoba.

1029. Failure of the Canadian Pacific Railway to deliver box of freight consigned to Gaetz Valley, Alberta, via Red Deer, Alberta.

1030. Refusal of Bell Telephone Company to furnish telephone connection with Sorel, Quebec.

1031. Poor condition of the Canadian Pacific Railway for the handling of traffic to and from Wattsburg, British Columbia; also condition of cattle guards, fences, &c.

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1032. Unsatisfactory settlement caused by accident on the Temiscouata Railway near Michaud, New Brunswick.

1033. Passenger fares charged by the British Columbia Electric Railway on its line between Vancouver and New Westminster, British Columbia.

1034. Loss of cattle owing to fences being down on right of way of the Canadian Pacific Railway near Port Moody, British Columbia.

1035. Excessive freight rates of the Canadian Pacific Railway on forest products to Edmonton, Alberta.

1036. Wording of contracts on receipt forms and accommodation for handling fruit at fruit shipping points in the Niagara district and use of freight cars for carriage of fruit by express companies.

1037. Station accommodation of the Canadian Pacific Railway at Redvers, Saskatchewan.

1038. Discrimination in local tariffs of express companies against Calgary, Alberta.

1039. Delivery limits of express companies in Winnipeg, Manitoba, and extra charge for delivering outside of city limits.

1040. Express rates and service of companies doing business at Winnipeg, Manitoba.

1041. Express rates and Canadian Pacific Railway train service at Dewdney, British Columbia.

1042. Loss of cattle killed on right of way of Canadian Pacific Railway at Dewdney, British Columbia, owing to improper cattle guards.

1043. Unsatisfactory freight service for the movement of perishable products from Calgary and British Columbia points by the Canadian Pacific Railway.

1044. Excessive freight rates and classification on shipment from Winnipeg, Manitoba.

1045. Proposed change in running of trains 3 and 4 on the Kingston and Pembroke Railway.

1046. Discrimination in passenger rates on the Canadian Pacific Railway from Prescott to Saskatchewan.

1047. Express rates and service at Brandon, Manitoba.

1048. Service and express rates of companies doing business in western Canada.

1049. Overcharge on car of lumber from Hamilton to Listowel, Ontario.

1050. Freight rates charged by railways in the Okanagan Valley, British Columbia.

1051. Freight rates on fish via Canadian Pacific Railway from Lunenburg, Nova Scotia, to Calgary and Edmonton, Alberta.

1052. Discrimination against Campbellcroft, Ontario, as compared with the rates to Port Arthur and Millbrook, Ontario.

1053. Overcharge on empties from Ottawa to London, Ontario.

1054. Failure of the Grand Valley Railway to carry out agreement with farmers along line from Grand River to St. George, Ontario.

1055. Removal of siding at Garnet, Ontario, by the Grand Trunk Railway.

1056. Delay in delivery of express shipments and excessive express rates charged on shipments from Fort Qu'Appelle, Saskatchewan.

1057. Excessive freight rates of the Central Ontario Railway on shipment of corn from Buxton to Bannockburn, Ontario.

1058. Negligence of employees on Quebec and Lake St. John Railway in the handling of shipment of timbers.

1059. Change in name of station on the Grand Trunk Railway from Garden Hill to Campbellcroft, Ontario.

1060. Condition of highway bridge over Francis up to the southeast limit of St. Francis Xavier de Brampton, New Brunswick, on the Orford Mountain Railway.

1061. Abandonment by the New Westminster Southern Railway (Great Northern Railway) old line from Blain to Fraser river, British Columbia.

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1062. Excessive rates of the Grand Trunk Railway on bicycles from Hamilton, Ontario.

1063. Excessive freight rates on the Grand Trunk Railway from Moosomin to St. George, Ontario.

1064. Dangerous condition of wooden bridges and trestles between Annapolis Royal and Digby, Nova Scotia.

1065. Removal by the Atlantic and Lake Superior Railway of frogs and sidings at Nouvelle West, New Brunswick.

1066. Refusal of the Canadian Northern Telegraph Company at Manville, Alberta, to receive collect message.

1067. Excessive rates of Dominion and American Express Companies on car of strawberries to Brandon, Manitoba.

1068. Loss of horses killed on railway on account of insufficient cattle guards near Rocanville, Saskatchewan.

1069. Switching charge of \$8 by the Canadian Northern Railway at Winnipeg, Manitoba, on hay in carloads.

1070. Condition of railways, inadequate facilities, inequality of passenger and freight rates on railways in British Columbia.

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APPENDIX F.

LIST OF INSPECTIONS MADE BY THE ENGINEERING DEPARTMENT
OF THE RAILWAY COMMISSION, APRIL 1, 1908, TO MARCH 31,
1909, INCLUSIVE.

OTTAWA, April 30, 1909.

A. D. CARTWRIGHT, Esq.,
Secretary of Railway Commission,
Ottawa, Ont.

SIR,—I beg to submit herewith list of examinations and inspections made by the Engineering Department of the Board, covering the period from April 1, 1908, to March 31, 1909.

I have the honour to be sir,

Your obedient servant,

(Sgd.) GEO. A. MOUNTAIN,

Chief Engineer.

LIST OF INSPECTIONS MADE BY THE ENGINEERING DEPARTMENT
OF THE RAILWAY COMMISSION, APRIL 1, 1908, TO MARCH 31, 1909,
INCLUSIVE.

March 5, 1908.—Inspection interlocker at crossing of the Canadian Pacific Railway by the Grand Trunk Railway at the Don, Toronto, Ont.

March 11, 1908.—Inspection interlocker at crossing of the Grand Trunk Railway by the Canadian Pacific Railway at Lennoxville, Quebec.

March 20, 1908.—Inspection highway crossing over the Canadian Pacific Railway at Durham, Ont.

March 27, 1908.—Inspection subway at Mile Post 124.96 on the line of the Grand Trunk Railway at Brockville, Ont., where the Canadian Pacific Railway passes under the Grand Trunk Railway.

April 1, 1908.—Inspection crossing of the Canadian Pacific Railway over the Quebec and Lake St. John Railway and the Quebec Railway Light and Power Company at Quebec, P.Q.

April 1, 1908.—Inspection interlocker at crossing of the Canadian Pacific Railway by the Grand Trunk Railway at the Don, Toronto, Ont.

April 1, 1908.—Inspection highway crossings in the town of Napanee on the line of the Grand Trunk Railway.

April 2, 1908.—Inspection highway crossing on the line of the Canadian Pacific Railway at Dorchester street, Quebec, P.Q., *re* protection.

April 2, 1908.—Inspection highway crossing known as 'Cowan's Crossing,' two miles east of Scarboro Junction on the line of the Grand Trunk Railway.

April 3, 1908.—Inspection Pike Drainage Works about one mile west of Prairie siding on the line of the Grand Trunk Railway, township of Raleigh, Ont.

April 10, 1908.—Inspection at Mileage 61, on the Macleod branch of the Canadian Pacific Railway, as to cattle guards and crossings.

April 13, 1908.—Inspection of crossing on road-allowance, Canadian Pacific Railway, Rush Lake, Sask.

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April 13, 1908.—Inspection crossing Montreal Street Railway by spur of the Canadian Northern Quebec Railway to the harbour at Montreal, P.Q.

April 22, 1908.—Inspection location of the Canadian Pacific Railway across property of George Elliott at Woodbridge, Ont, on their Toronto-Bolton line.

April 22, 1908.—Inspection lands in Toronto to be taken by the Canadian Northern Ontario Railway to divert part of Park Drive and a trespass road.

April 23, 1908.—Inspection proposed drain on farm of John Turnbull, of Komoko, Ont., on the line of the Grand Trunk Railway.

April 24, 1908.—Inspection proposed drain across right of way of Grand Trunk Railway one mile east of Elora, Ont.

April 24, 1908.—Inspection highway crossing one mile south of Moorfield, on the line of the Grand Trunk Railway.

April 28, 1908.—Inspection crossing at intersection of the Lee-Mountain road with the Toronto, Hamilton and Buffalo Railway, in the township of Saltfleet, Ont.

April 28, 1908.—Inspection right of way Canadian Northern Railway in connection with cattle guards near Togo, Sask.

May 2, 1908.—Inspection interlocking plant six miles east of Winnipeg on the Molson cut-off of the Canadian Pacific Railway.

May 6, 1908.—Inspection gates at Simcoe street, Oshawa, Ont, on the line of the Grand Trunk Railway.

May 7, 1908.—Inspection crossing of Main street in the town of Forest by the Grand Trunk Railway.

May 8, 1908.—Inspection highway crossing between counties of Waterloo and Wellington on the line of the Guelph and Goderich Railway at mileage 20.5.

May 8, 1908.—Inspection on the Canadian Northern Railway in connection with cattle guards and fencing on right of way in municipality of Springfield and Tache.

May 12, 1908.—Inspection crossing of public road by single track of the Grand Trunk Railway just east of the station at Maxville, Ont.

May 13, 1908.—Inspection proposed extension of Mountain street, Hull, P.Q., across the tracks of the Canadian Pacific Railway.

May 14, 1908.—Inspection crossing of Pitt street, Cornwall, Ont., by the line of the Grand Trunk Railway.

May 15, 1908.—Inspection electro-pneumatic train control system, patented by J. A. Whyte, Ottawa, Ont.

May 15, 1908.—Inspection interlocking plant at the Canadian Northern Railway crossing of the Brandon, Saskatchewan and Hudson Bay Railway.

May 14, 1908.—Inspection interlocking plant at the crossing of the Canadian Northern Railway over the Canadian Pacific Railway at Morris, Man.

May 16, 1908.—Inspection interlocking plant 11 miles west of Brandon at the Canadian Northern Railway crossing over the Canadian Pacific Railway.

May 18, 1908.—Inspection interlocker at crossing of the Canadian Pacific Railway and the Chatham Wallaceburg and Lake Erie Railway at Raleigh street Chatham, Ont.

May 19, 1908.—Inspection interlocker at crossing of the Lake Erie and Detroit River Railway by the Chatham, Wallaceburg and Lake Erie Railway at Cedar Springs, Ont.

May 19, 1908.—Inspection interlocking plant at crossing of the Canadian Pacific Railway by the Canadian Northern Quebec Railway at Lachevrotiere, P.Q.

May 19, 1908.—Inspection highway crossing at mileage 20, on the Lindsay branch of the Canadian Pacific Railway, township of Ops.

May 19, 1908.—Inspection highway crossing on the line of the Pere Marquette Railway at Cedar Springs, Ont.

May 20, 1908.—Inspection highway crossings on the deviation of the Grand Trunk Railway, Midland branch, from Albert street in the town of Lindsay, to a point in the east half of lot No. 25, concession 2, township of Ops, county of Victoria, Ont.

May 21, 1909.—Inspection highway crossing 1,800 feet east of Bowmanville station on the main line of the Grand Trunk Railway.

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May 22, 1908.—Inspection highway crossings on the line of the Grand Trunk Pacific Railway near Miniota, at mileage 24·1, mileage 24·6 and mileage 25·2.

May 26, 1909.—Inspection Brantford and Hamilton Electric Railway, Hamilton to Ancaster and Ancaster to Brantford, for opening for traffic.

May 30, 1908.—Inspection interlocking plant 14 miles west of Winnipeg crossing of Canadian Northern Railway main line and Souris branch of the Canadian Pacific Railway.

June 1, 1908.—Inspection interlocking plant at the west end of Portage la Prairie yard, Canadian Pacific Railway, Canadian Northern Railway and the Grand Trunk Pacific Railway.

June 1, 1908.—Inspection of branch of the Canadian Northern Quebec Railway from St. Sauveur to Huberdeau, a distance of 30·5 miles, as to general conditions.

June 1, 1908.—Inspection proposed site for a station at Omemee Junction, Ont., on the line of the Grand Trunk Railway.

June 1, 1908.—Inspection proposed crossing of the Montreal Terminal Railway by the Canadian Northern Quebec Railway tracks into premises of the Lakefield Portland Cement Company at Lakefield, P.Q.

June 2, 1908.—Inspection work done at crossing of the Lee Mountain road by the Toronto, Hamilton and Buffalo Railway, about one and a half miles east of Stony Creek, Ont.

June 3, 1908.—Inspection Brooker's Crossing, two and a half miles west of Mallorytown, on the line of the Grand Trunk Railway, in the township of the Front of Escott.

June 3, 1908.—Inspection highway crossing on the line of the Toronto, Hamilton and Buffalo Railway, just west of station at Jerseyville, Ont.

June 8, 1908.—Inspection crossings of Queen and Ann streets, in the village of Blyth, by the Guelph and Goderich branch of the Canadian Pacific Railway.

June 8, 1908.—Inspection crossing of highway between concessions 9 and 10, in township of Motts, just east of Blyth, by Guelph and Goderich branch of the Canadian Pacific Railway.

June 9, 1908.—Inspection interlocking appliances at crossing of double track of the Canadian Pacific Railway by the single track of the Montreal Street Railway on Papineau avenue, city of Montreal, P. Q.

June 9, 1908.—Inspection interlocking appliances for protection of trains, Lachine canal bridge, on the line of the Canadian Pacific Railway, near Highlands, P.Q.

June 15, 1908.—Inspection Pheasant's Hill branch extension of the Canadian Pacific Railway from Saskatoon to Asquith, a distance of 23 miles.

June 16, 1908.—Inspection of Pheasant's Hill branch of the Canadian Pacific Railway from Lanigan, mileage 254·5 to Saskatoon, mileage 328·4, a distance of 73·9 miles.

June 16, 1908.—Inspection proposed crossing over St. Charles street on Jones bridge, by the Canadian Pacific Railway at St. Johns, P.Q.

June 16, 1908.—Inspection Canadian Northern Ontario Railway for opening for traffic from Still river to Romford.

June 16, 1908.—Inspection interlocker at crossing of the Canadian Pacific Railway and the Canadian Northern Ontario Railway near Elbow Creek, Ont.

June 16, 1908.—Inspection from crossing at St. Bruno, P.Q., on the line of the Grand Trunk Railway.

June 17, 1908.—Inspection interlocking plant east end of Portage la Prairie yard, Canadian Northern Railway crossing with the Grand Trunk Pacific Railway.

June 17, 1908.—Inspection farm crossing for Mrs. MacLeod, at Footes Bay, Ont., on the line of the Canadian Northern Ontario Railway.

June 18, 1908.—Inspection farm crossing for Mr. Dufresne on the St. Guillaume branch of the Canadian Pacific Railway near St. Pie station, P.Q.

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June 24, 1908.—Inspection interlocker on the line of the Canadian Pacific Railway near London asylum, London, Ont.

June 24, 1908.—Inspection cattle-guards on the line of the Vancouver, Westminster and Yukon Railway, between Vancouver and Cloverdale, B.C.

June 25, 1908.—Inspection highway crossing in village of Duncan, B.C.

June 25, 1908.—Inspection proposed crossing of the Esquimalt and Nanaimo Railway over highway at mile post 41, near Duncan, B.C.

June 26, 1908.—Inspection drainage at Mountain, complained of by S. B. Porter, health inspector.

June 26, 1908.—Inspection condition drainage along right of way of the Canadian Pacific Railway on B. McKendrie's property at Mountain, Ont.

June 30, 1908.—Inspection road diversion at Canford, B.C., on N. K. and S. Railway.

July 2, 1908.—Inspection crossing of the Grand Trunk Railway by the Toronto and York Radial Railway, in the village of Sutton, Ont.

July 3, 1908.—Inspection Listowel branch of the Guelph and Goderich Railway from Linwood Junction to Listowel, a distance of 16.1 miles, for opening for traffic.

July 3, 1908.—Inspection of the St. Mary's and Western Ontario Railway for opening for traffic, also bridges on the line.

July 3, 1908.—Inspection of Canadian Pacific Railway (Elwood, Burt spur) at Carrigan, N.B.

July 3, 1908.—Inspection public highway crossing Canadian Pacific Railway, St. Andrews branch, Rolling Dam, N.B.

July 3, 1908.—Inspection bridges on the Atlantic division of the Canadian Pacific Railway, Fredericton section.

July 3, 1908.—Inspection bridges on the Gibson section, Atlantic division of the Canadian Pacific Railway.

July 3, 1908.—Inspection road diversion by the Canadian Pacific Railway, lot 15, parish of Brighton, county of Carlton, N.B., near Newburg Junction.

July 3, 1908.—Inspection New Brunswick Southern Railway from St. John to St. Stephen, N.B.

July 3, 1908.—Inspection public road diversion from a point on lot 15, parish of Brighton, county of Carlton, N.B., near Newburg Junction, on the line of the Canadian Pacific Railway.

July 3, 1908.—Inspection Brockville, Westport and Northwestern Railway as to general condition.

July 4, 1908.—Inspection portion of the Walkerton and Lucknow Railway from Saugeen Junction to mile 27.5 at Hanover for opening for traffic.

July 4, 1908.—Inspection diversions of the Toronto, Grey and Bruce Railway for opening of traffic from mileage 7.3 to 8 near Emery; mileage 10.8 to 13.4 near Woodbridge; 15.3 to 17.5 near Eleinburg, and mileage 19.3 to 21.8 near Bolton, Ont.

July 6, 1908.—Inspection line of the Great Northern Railway of Canada from Phoenix to Grand Forks, B.C., a distance of 24 miles.

July 6, 1908.—Inspection location of spur crossing 5th and 6th streets on the line of the Canadian Pacific Railway in the town of Grand Forks, B.C.

July 6, 1908.—Inspection station grounds at St. Pie, P.Q., on the St. Guillaume branch of the Canadian Pacific Railway.

July 7, 1908.—Inspection bridges on the St. John section, Atlantic division, of the Canadian Pacific Railway.

July 7, 1908.—Inspection bridges on the Woodstock section, Atlantic division of the Canadian Pacific Railway.

July 7, 1908.—Inspection bridges on the Edmonton section of the Atlantic division of the Canadian Pacific Railway.

July 10, 1908.—Inspection drainage on farm of P. Livernoche and others at Louiseville, P.Q., on the line of the Canadian Pacific Railway.

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July 15, 1908.—Inspection diamond at the intersection of Hess and Herkimer streets, Hamilton, Ont.

July 16, 1908.—Inspection Canadian Pacific Railway from Kemptville Junction, mileage 102.3, to Smith's Falls, mileage 123.3, a distance of 20 miles.

July 20, 1908.—Inspection Grand Valley Railway crossing of tracks of the Grand Trunk Railway in the city of Brantford, Ont.

July 20, 1908.—Inspection crossing of the Toronto, Hamilton and Buffalo Railway by the Grand Valley Railway in the city of Brantford.

July 20, 1908.—Inspection crossing of the Brantford and Hamilton Railway by the Grand Valley Railway at Brantford, Ont.

July 20, 1908.—Inspection proposed location of highway crossing in the township of Woolastin, near Coe Hill on the Central Ontario Railway.

July 21, 1908.—Inspection station grounds at Maynooth, Ont., on the line of the Central Ontario Railway.

July 21, 1908.—Inspection crossing at Jamieson avenue, Toronto, Ont.

July 22, 1908.—Inspection proposed farm crossing on the line of the Toronto, Hamilton and Buffalo Railway, west of Hamilton, Ont.

July 23, 1908.—Inspection for opening for traffic of the Chatham, Wallaceburg and Lake Erie Railway from the crossing of the Michigan Central Railway near Charing Cross to Erie Beach Park.

July 24, 1908.—Inspection interlocking plant at Chatham, where the Chatham, Wallaceburg and Lake Erie Railway crosses the Grand Trunk Railway.

July 24, 1908.—Inspection road crossings at Hagersville, Ont., over the Michigan Central Railway.

July 24, 1908.—Grand Trunk Pacific Railway for opening for traffic from Winnipeg to Battle River, a distance of 625 miles.

July 31, 1908.—Inspection Amos Morgan's property crossed by the right of way of the Canadian Pacific Railway, lot 1, concession 9, near Crookstown, Ont.

August 3, 1908.—Inspection cattle guards at Cowley, Alta.

August 3, 1908.—Inspection proposed change of location of the Crowsnest branch of the Canadian Pacific Railway in the vicinity of Pincher's Creek, and Cowley, Alta.

August 5, 1908.—Inspection Main street crossing at Welland, Ont., over the tracks of the Grand Trunk Railway.

August 6, 1908.—Inspection proposed road diversion on the Toronto, Hamilton and Buffalo Railway, known as the London to Hamilton road, at a point three miles east of the city of Brantford, Ont.

August 6, 1908.—Inspection for opening for traffic of the Walkerton and Lucknow branch of the Canadian Pacific Railway, mileage 27.5 to 37.7.

August 12, 1908.—Inspection interlocking plant at Sarnia where the Sarnia Electric Railway crosses the Grand Trunk Railway.

August 15, 1908.—Inspection of branch line of the White Pass and Yukon Railway,

August 15, 1908.—Inspection temporary bridge over the Cornwall canal on the Ottawa and New York Railway.

August 25, 1908.—Inspection double track of the Canadian Pacific Railway between Kemptville Junction and Finch, Ont.

August 25, 1908.—Inspection derailment of Great Northern Railway train about one mile west of Port Kells, B.C.

August 28, 1908.—Inspection lands at St. Hilaire, for expropriation by the Grand Trunk Railway for double track.

August 28, 1908.—Inspection crossing of highway in village of Maxville by the Grand Trunk Railway.

August 29, 1908.—Inspection Central Vermont Railway in Canada as to general conditions.

August 30, 1908.—Inspection bridge at Rush lake, Swift Current Section, Canadian Pacific Railway.

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August 30, 1908.—Inspection highway crossings on grade revision of the Canadian Pacific Railway between Kincorth and Walsh, mileage 102·11 to 110·56, Medicine Hat section.

August 30, 1908.—Inspection bridges on Medicine Hat section, miles 124 and 144·6.

September 4, 1908.—Inspection property of Mr. McCuaig at Dalhousie Mills, Ont., to be expropriated by the Canadian Pacific Railway.

September 5, 1908.—Inspection Prince Albert branch of the Canadian Northern Railway from Tisdale to Melfort, a distance of 26 miles.

September 8, 1908.—Inspection interlocking plant at Nokomis, Alta.

September 8, 1908.—Inspection Canadian Pacific Railway between Rocanville and Tantallon.

September 9, 1908.—Inspection Grand Trunk Pacific Railway for opening for traffic between Portage la Prairie, mileage 54·3, and Pacific Junction, mileage 6·5, and from Oak Point Junction to a junction with the line of the Canadian Northern Railway near Pembina Avenue, Winnipeg, mileage, 4·4 to 3·0.

September 11, 1908.—Inspection Grand Valley Railway as to general conditions.

September 11, 1908.—Inspection farm crossing of H. Frenette at Portneuf, on the line of the Canadian Northern Quebec Railway.

September 11, 1908.—Inspection farm crossing of F. Leduc on the line of the Canadian Northern Quebec Railway, parish of St. Casimir, P.Q.

September 11, 1908.—Inspection road diversion on the line of the Canadian Northern Quebec Railway between Portneuf and Cap Sante, about mile 37.

September 12, 1908.—Inspection drainage on farm of H. Frenette, at Portneuf, P.Q.

September 12, 1908.—Inspection overhead bridge Eight street, Brandon, on the line of the Canadian Pacific Railway.

September 14, 1908.—Inspection farm crossing Madame Plouffe, mile 15, St. Jerome-St. Sauveur branch of the Canadian Northern Quebec Railway.

September 18, 1908.—Inspection bridge at mileage 109·9, Calgary section of the Canadian Pacific Railway.

September 18.—Inspection bridge at mileage 179·1, Calgary section of the Canadian Pacific Railway.

September 18, 1908.—Inspection bridge over irrigation canal near Langdon on the line of the Canadian Pacific Railway.

September 18, 1908.—Inspection bridge over the irrigation canal near Strathmore, on the line of the Canadian Pacific Railway.

September 18, 1908.—Inspection crossings on the line of the Canadian Pacific Railway south of Claresholm, Sask.

September 18, 1908.—Inspection drainage at Lachine, P.Q.

September 19, 1908.—Inspection twenty bridges on the mountain section, Pacific division of the Canadian Pacific Railway between Laggan and Revelstoke, B.C.

September 21, 1908.—Inspection Canadian Northern Ontario Railway 'Y' at Sudbury, Ont.

September 22, 1908.—Inspection bridges on Cascades section, Pacific division, Canadian Pacific Railway between North Bend, and Vancouver, B.C.

September 22, 1908.—Inspection farm crossing Mrs. McGregor on the line of the Canadian Pacific Railway at Warren, Ont.

September 23, 1908.—Inspection highway crossing on line of the Canadian Pacific Railway at Cache bay, Ont.

September 25, 1908.—Inspection double track Canadian Pacific Railway from Kemptville to Mountain, Ont.

September 26, 1908.—Inspection for opening for traffic of the Canadian Pacific Railway, Medicine Hat section, mileage 15 to 22·1; 49 to 59; 75·1 to 80·1; also new second track from mileage 43·1 to Dunmore Station.

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September 28, 1908.—Inspection station at St. Brigide, and shelter at St. Gregoire on the line of the Canadian Pacific Railway.

September 28, 1908.—Inspection bridges and road-bed on the line of the Canadian Northern Railway between Port Arthur and Winnipeg, Man.

September 28, 1908.—Inspection bridge at River du Sud on the line of the Quebec, Montreal and Southern Railway.

September 30, 1908.—Inspection highway crossings on the line of the St. Lawrence and Adirondack Railway.

October 1, 1908.—Inspection opening for traffic of the Canadian Pacific Railway, Weyburn to Stoughton branch, a distance of 36.7 miles.

October 6, 1908.—Inspection opening for traffic Canadian Pacific Railway diversion Medicine Hat section, from Piapot, mileage 67.75, to mileage 75.10, distance 7.35 miles.

October 8, 1908.—Inspection cattle guards near Winnipeg, known as the Sutherland guards.

October 9, 1908.—Inspection connection between Canadian Pacific Railway and Canadian Northern Railway at St. Jerome, P.Q.

October 9, 1908.—Inspection half interlocker at Sutton, Ont., at crossing of the Grand Trunk Railway by the Toronto and York Radial Railway.

October 9, 1908.—Inspection Canadian Northern Quebec Railway, St. Jerome to Huberdeau.

October 10, 1908.—Inspection for opening for traffic of the Brantford and Hamilton Railway from Alfred street to Market street in the city of Brantford, Ont.

October 12, 1908.—Inspection *re* proposed station near Vineland on the Grand Trunk Railway.

October 12, 1908.—Inspection opening for traffic of the Canadian Pacific Railway west of Saskatoon from Asquith, mileage 25.0 to Wilkie, mileage 99.0, distance, 74.0 miles.

October 13, 1908.—Inspection cattle guards on the Canadian Northern Railway main line at Chipman and Lamont.

October 15, 1908.—Inspection diamond at crossing of the Canadian Pacific Railway by the Toronto Suburban Railway on St. Claire Avenue, Toronto, Ont.

October 15, 1908.—Inspection drain complained of by Mr. Freeman of Burlington Junction on the line of the Grand Trunk Railway.

October 16, 1908.—Inspection new road leading from new Bolton station on the Canadian Pacific Railway to highway leading to village of Bolton, Ont.

October 16, 1908.—Inspection Canadian Pacific Railway track at Bolton *re* complaint of A. A. McFall.

October 21, 1908.—Inspection grade revision on the line of the Canadian Pacific Railway at Romford crossing.

October 21, 1908.—Inspection crossings in the township of Medonte on the Toronto-Sudbury branch of the Canadian Pacific Railway.

October 21, 1908.—Inspection interlocker at Hervey Junction at crossing of the Canadian Northern Quebec Railway and the National Transcontinental Railway.

October 22, 1908.—Inspection near St. Pauline station on the Canadian Northern Quebec Railway on the property of N. Lessard.

October 22, 1908.—Inspection culverts on the Canadian Northern Quebec Railway between Hervey Junction and St. Tite, Que.

October 22, 1908.—Inspection train service and accommodation on the Canadian Northern Quebec Railway at St. Tite, Que.

October 23, 1908.—Inspection bridges and abutments on the Canadian Pacific Railway, Ignace Station.

October 23, 1908.—Inspection for opening for traffic second track, Ignace section, Canadian Pacific Railway, mileage 127.8, to 133.5, distance, 5.7 miles.

October 24, 1908.—Inspection bridges, abutments and piers, Kenora section, Canadian Pacific Railway.

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October 24, 1908.—Inspection opening for traffic second track of Kenora section of the Canadian Pacific Railway, from Kenora, mileage 0, to Busted, mile 14.0, and from Deception, mile 18.6, to Ingolf, mile 31.2.

October 24, 1908.—Inspection opening for traffic Canadian Pacific Railway second track, Ignace section, mile 98.6 to mile 99; from mile 102.65 to 104.61, and from mile 130 to mile 132.

October 26, 1908.—Inspection crossings over the Grand Trunk Railway tracks and the Montreal, Park and Island Railway tracks in the town of Lachine.

October 27, 1908.—Inspection Brennan's siding on Ferguson avenue, Hamilton, Ont.

October 27, 1908.—Inspection interlocker and gates at crossing of Toronto Railway by the Grand Trunk Railway at Front street, Toronto, Ont.

October 29, 1908.—Inspection Canadian Pacific Railway for opening for traffic, Reston-Wolseley branch from Kaiser, mileage 98.2, to Wolseley, mileage 122.2, distance 24 miles.

October 30, 1908.—Inspection Canadian Pacific Railway, Sheho extension, from mileage 42.2 to mileage 66.2, a distance of 24 miles.

November 4, 1908.—Inspection Canadian Pacific Railway for opening for traffic Moosejaw Northwestern extension from mile 63 to 91, a distance of 28 miles.

November 6, 1908.—Inspection *re* estimate of cost of subway under the Canadian Northern Railway at Saskatoon, Sask.

November 7, 1908.—Inspection interlocker at Canadian Pacific Railway crossing on Richmond street, London, Ont.

November 7, 1908.—Inspection Canadian Pacific Railway crossing on Quebec street, London, Ont.

November 7, 1908.—Inspection condition of culvert under the tracks of the Canadian Pacific Railway on lot 20, township of London, two miles west of London, Ont.

November 17, 1908.—Inspection bridges on the Emerson section of the Canadian Pacific Railway.

November 17, 1908.—Inspection Canadian Northern Ontario Railway from Rosedale to Queen street, Toronto, Ont.

November 18, 1908.—Inspection proposed site of crossing for H. New, owner of pressed brick works on the line of the Toronto, Hamilton and Buffalo Railway at Hamilton, Ont.

November 19, 1908.—Inspection Canadian Northern Ontario Railway spur in the town of Parry Sound, Ont.

November 19, 1908.—Inspection deviation of Great North Road in the town of Parry Sound, Ont.

November 19, 1908.—Inspection Canadian Northern Ontario Railway trestle approach to the Ottawa river bridge at Hawkesbury, Ont.

November 19, 1908.—Inspection farm crossing of E. Raymond, Staynerville, P.Q., on the line of the Canadian Pacific Railway.

November 19, 1908.—Inspection interlocking plant at crossing of the Canadian Northern Ontario Railway and the Grand Trunk Railway at Hawkesbury, Ont.

November 19, 1908.—Inspection opening for traffic of the Canadian Pacific Railway second track, Fort William section, from mile 31.6 to 31.63, from 106 to 106.2, and from 112.6 to 124.7.

November 20, 1908.—Inspection Canadian Pacific Railway for opening for traffic second track from mile 71.9 to 89.9 and from 140.8 to 148.

November 20, 1908.—Inspection Hawkesbury street crossings by the Canadian Northern Railway, affecting Mrs. A. Brown.

November 21, 1908.—Inspection switch on the Canadian Northern Quebec Railway at Morrow street, Montreal, P.Q.

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November 24, 1908.—Inspection opening for traffic Canadian Northern Railway, Rossburn extension, from Rossburn, mile 78.7, to Russell, mile 104.3, distance 25.6 miles.

November 24, 1908.—Inspection opening for traffic Grand Trunk Pacific Railway, Lake Superior branch, from West Fort William, mile 0.5, to Lake Superior Junction, mile 288.2, distance 287.5 miles.

November 26, 1908.—Inspection farm crossing F. Quebec, Parry Sound, Ont., on line of the Canadian Northern Railway.

November 27, 1908.—Inspection proposed site for a station at Crysler, Ont., on the line of the Ottawa and New York Railway.

November 28, 1908.—Inspection opening for traffic of the Canadian Northern Railway, Goose Lake extension, from Saskatoon, mile 0, to Zelanda, mile 60, distance 60 miles.

November 28, 1908.—Inspection Canadian Northern Railway, Prince Albert section, from Prince Albert to Erwood, distance 169.8 miles, in connection with the complaint of the Prince Albert Board of Trade as to unsafe condition of the road-bed.

November 28, 1908.—Inspection street crossings in the town of Vegreville over the tracks of the Canadian Northern Railway.

December 1, 1908.—Inspection gates at crossing on Bloor street by the Grand Trunk Railway in Toronto, Ont.

December 2, 1908.—Inspection Grand Trunk bridges between St. Catharines and Merritton.

December 2, 1908.—Inspection five overhead bridges between St. Catharines and Merritton, Ont.

December 3, 1908.—Inspection street crossings on the line of the Walkerton and Lucknow Railway in the town of Durham, Ont.

December 3, 1908.—Inspection culvert on the line of the Canadian Pacific Railway at Lily lake, Ont., township of Humphrey, Muskoka district.

December 3, 1908.—Inspection *re* accident at Ottawa South on the line of the Grand Trunk Railway.

December 3, 1908.—Inspection new second track of the Grand Trunk Railway North Parkdale to St. Claire Avenue in the city of Toronto, Ont.

December 4, 1908.—Inspection interlocker at crossing of the Tilsonburg branch of the Grand Trunk Railway by the Brantford and Hamilton Railway in the city of Brantford, Ont.

December 4, 1908.—Inspection interlocking plant installed by the Montreal Street Railway on Pie IX. Avenue crossing of the Chateauguay and Northern Railway, Montreal, P.Q.

December 4, 1908.—Inspection St. Catherine Street bridge over Hochelaga yard of the Canadian Pacific Railway, Montreal.

December 5, 1908.—Inspection opening for traffic Canadian Pacific Railway Moosejaw Northwestern extension, mileage 91 to mileage 169.8, distance of 78.8 miles.

December 7, 1908.—Inspection opening for traffic Canadian Northern Railway, Lumsden diversion, 8.46 miles.

December 8, 1908.—Inspection Canadian Northern Ontario Railway, Hawkesbury trestle approach Ottawa river bridge.

December 8, 1908.—Inspection Canadian Northern Ontario Railway location near Grenville, P.Q.

December 11, 1908.—Inspection highway crossings at Cache bay, Ont.

December 14, 1908.—Inspection sewer under the tracks of the Grand Trunk Railway in the town of Notre Dame de Grace, P.Q.

December 14, 1908.—Inspection fences on the line of the Canadian Pacific Railway, Grand Trunk Railway and the Canadian Northern Ontario Railway between Winchester street and Queen street, Toronto, Ont.

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December 14, 1908.—Inspection semaphores just west of Bathurst street bridge, Toronto, Ont.

December 15, 1908.—Inspection interlocking appliances at crossing of the Grand Trunk Railway by the Lake Erie and Detroit River Railway at Chatham, Ont.

December 15, 1908.—Inspection fences on the line of the Grand Trunk Railway at Swansea, Ont.

December 15, 1908.—Inspection crossing of Lesperance road by Grand Trunk Railway, Tecumseh, Ont.

December 15, 1908.—Inspection interlocker tower at crossing of Grand Trunk Railway by the Chatham Wallaceburg and Lake Erie Railway at Chatham, Ont.

December 16, 1908.—Inspection new second track of Grand Trunk Railway between Hamilton and Port Dover, Ont.

December 16, 1908.—Inspection fencing on the line of the Canadian Northern Railway, Oak Point branch, section 14-3-1, W.P.M.

December 17, 1908.—Inspection spur to Peters Coal Company at West Toronto, Ont., on the line of the Canadian Pacific Railway.

December 18, 1908.—Inspection *re* interchange in traffic between the Grand Trunk Railway and the Canadian Pacific Railway, at Listowel, Ont.

December 18, 1908.—Inspection highway crossings on the Canadian Northern Railway, Oak Point branch.

December 18, 1908.—Inspection bridges, piers and abutments on the Canadian Pacific Railway, Fort William section.

December 18, 1908.—Inspection Chatham, Wallaceburg and Lake Erie Railway for opening for traffic on Union street, Aberdeen bridge, King street, Third street, Raleigh street, from Raleigh street to William street, and on William and Queen streets in the city of Chatham, Ont.

December 22, 1908.—Inspection road crossing on the Grand Trunk Railway near St. Marys, Ont.

December 29, 1908.—Inspection interlocking plant at Rockland, Ont., at crossing of the Grand Trunk Railway by the Canadian Northern Ontario Railway.

December 29, 1908.—Inspection grade revision between Woodstock and Hartland, N.B., near Newburg Junction, mile 55.3 to 59.8 and from mile 62.5 to 64.0 near Hartland Junction on the line of the Canadian Pacific Railway, for opening for traffic.

December 29, 1908.—Inspection diversions of highways in the vicinity of Newburg Junction, N.B., by the Canadian Pacific Railway.

December 31, 1908.—Inspection interprovincial bridge at Ottawa, Ont.

January 2, 1909.—Inspection electric bell installed by the Grand Trunk Railway at Main street crossing, Forest, Ont.

January 7, 1909.—Inspection culvert on the line of the Canadian Pacific Railway on A. Mayer's farm at Allan Park, Ont.

January 7, 1909.—Inspection Hutton Hill highway crossing on the Walkerton and Lucknow Railway in township of Bentinck, west of Durham, Ont.

January 7, 1909.—Inspection wire crossings over the Canadian Pacific Railway of the Ingersoll Electric Light and Power Company at Ingersoll, Ont.

January 5, 1909.—Inspection new road at Bolton on the line of the Canadian Pacific Railway.

January 9, 1909.—Inspection farm crossing, C. Franche, on the line of the Canadian Northern Ontario Railway at Wendover, Ont.

January 9, 1909.—Inspection opening for traffic Canadian Pacific Railway Gull Lake diversion from mileage 35.8 to 42.5.

January 9, 1909.—Inspection road crossings, Canadian Pacific Railway, grade revision, from Tompkins to Crane Lake, nine crossings in all.

January 9, 1909.—Inspection road crossings Canadian Pacific Railway, Medicine Hat section, grade revision, between Secord to Antelope, eight crossings in all.

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January 9, 1909.—Inspection road crossings Canadian Pacific Railway, Medicine Hat section, grade revision, between Gull Lake and Carmichael, eight crossings in all.

January 9, 1909.—Inspection road crossings Canadian Pacific Railway, Medicine Hat section, grade revision, between Piapot and Maple Creek, sixteen crossings in all.

January 10, 1909.—Inspection highway crossing over the Canadian Pacific Railway, five miles east of Swift Current, as to its unsafe condition.

January 11, 1909.—Inspection crossing over the Canadian Pacific Railway tracks at Qu'Appelle, Sask., as to its unsafe condition.

January 14, 1909.—Inspection crossing of the Ottawa Electric Railway by spur of the Canadian Pacific Railway at the end of St. Patrick street, Ottawa, Ont.

January 14, 1909.—Inspection connection of Napierville Junction Railway with the Grand Trunk Railway at Lacolle, P.Q.

January 15, 1909.—Inspection bridges on south bank of Lachine canal, Canadian Pacific Railway.

January 15, 1909.—Inspection bridge over Canal at Cardinal, Ont., Grand Trunk Railway.

January 18, 1909.—Inspection gates at Thames street crossing of the Grand Trunk Railway at Ingersoll, Ont.

January 18, 1909.—Inspection interlocking appliances at crossing of Grand Trunk Railway by the Hamilton Street Railway at intersection of Barton street and Ferguson avenue, Hamilton, Ont.

January 18, 1909.—Inspection crossing of Grand Trunk Railway by the Canadian Pacific Railway at Brampton, Ont.

January 18, 1909.—Inspection line of the Brantford and Hamilton Railway between Alfred and Market streets in the city of Brantford, Ont.

January 18, 1909.—Inspection gates at the crossing of Thames street, Ingersoll, Ont., by the Grand Trunk Railway.

January 18, 1909.—Inspection interlocker at Lorette, P.Q., at crossing of the Canadian Pacific Railway by the Canadian Northern Quebec Railway.

January 19, 1909.—Inspection half interlocker at Ontario street, Montreal, between the Montreal Street Railway and the Canadian Northern Quebec Railway.

January 19, 1909.—Inspection crossing of the Grand Trunk Railway by the Canadian Pacific Railway at Drumbo, Ont.

January 20, 1909.—Inspection opening of Grand Trunk street across the tracks of the Grand Trunk Railway at Upton, Que.

January 21, 1909.—Inspection opening for traffic the Kettle River Valley Railway from Grand Forks, B.C., mileage 0 to mileage 19.

January 27, 1909.—Inspection opening for traffic Vancouver, Victoria and Eastern Railway from Huntingdon (international boundary) to Cloverdale, distance 29.28 miles; from Blain (international boundary) to the junction at Oliver, distance 11.33 miles, and from a point near Oliver to the Fraser river bridge, distance 9.72 miles.

January 27, 1909.—Inspection *re* complaint Arthur Thuot, of Iberville, P. Q.

January 27, 1909.—Inspection bridges on the eastern division of the Canadian Pacific Railway, Farnham section.

January 27, 1909.—Inspection bridges on the eastern division of the Canadian Pacific Railway, Newport section.

January 27, 1909.—Inspection highway crossings on the Canadian Pacific Railway and the Quebec, Montreal and Southern Railway at Iberville, P.Q.

January 27, 1908.—Inspection highway crossings on the Canadian Pacific Railway at Sherbrooke, P.Q.

January 27, 1909.—Inspection highway crossings on the Grand Trunk Railway at Sherbrooke, P.Q.

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January 27, 1909.—Inspection highway crossings on the Grand Trunk Railway at St. John's, P.Q.

January 27, 1909.—Inspection highway crossings on the Canadian Pacific Railway at St. John's, P.Q.

January 28, 1909.—Inspection bridges on the eastern division of the Canadian Pacific Railway, Sherbrooke section.

January 28, 1909.—Inspection highway crossings on the Grand Trunk Railway at Richmond, P.Q.

January 28, 1909.—Inspection highway crossings on the Boston and Maine Railway at Lennoxville, P.Q.

January 28, 1909.—Inspection Canadian Pacific Railway and Grand Trunk Railway level highway crossing at College street, Lennoxville, P.Q.

January 29, 1909.—Inspection opening for traffic of the Canadian Pacific Railway Sheho extension from Leslie, mile 66.2, to Winyard, mile 89, distance 22.8 miles.

February 3, 1909.—Inspection crossing of Place d'Armes opposite Tete du Pont barracks at Kingston, Ont., by the Canadian Pacific Railway.

February 4, 1909.—Inspection highway crossing at Coteau street, Quebec, by the Canadian Pacific Railway.

February 5, 1909.—Inspection opening for traffic Canadian Pacific Railway, Sheho extension, from Leslie, mile 66.2, to Winyard, mile 89.0, distance 22.8 miles.

February 11, 1909.—Inspection *re* ditch on property of G. Elliott, Woodbridge, Ont.

February 12, 1909.—Inspection crossing of Cannifton road by the Grand Trunk Railway at Belleville, Ont.

February 12, 1909.—Inspection overhead bridge on the Grand Trunk Railway at Kingston, Ont.

February 13, 1909.—Inspection highway crossing over the Grand Trunk Railway at Collins Bay, Ont.

February 13, 1909.—Inspection highway crossing over the Grand Trunk Railway on Elliotts lane, Montreal road and Perth road at Kingston, Ont.

February 15, 1909.—Inspection *re* extension of Place Viger station yards at Montreal, P.Q.

February 15, 1909.—Inspection *re* extension of Windsor street station yards at Montreal, P.Q.

February 15, 1909.—Inspection highway crossing over the Grand Trunk Railway in the village of Burlington, Ont.

February 16, 1909.—Inspection Canadian Pacific Railway trestle over Cobbs Lake, Ont.

February 16, 1909.—Inspection highway crossing at Murrays Cut on the Canadian Pacific Railway near Owen Sound, Ont.

February 17, 1909.—Inspection Canadian Pacific Railway, MacLeod branch, location of a proposed spur line to serve the Okotaks Milling Company and Electric Light plant.

February 17, 1909.—Inspection Canadian Pacific Railway, MacLeod branch at Okotoks, *re* spur line to serve the Pugh and Livingstone Lumber Company, and the Western Canada Pressed Brick and Tile Company.

February 20, 1909.—Inspection crossing where the city of Edmonton and the Strathcona Radial Tramway Co. propose to cross the track of the Canadian Pacific Railway on White Avenue, Strathcona, Alta.

February 20, 1909.—Inspection proposed overhead crossing on the Grand Trunk Pacific Railway over the Fort Saskatchewan trail and the diversion of the Fort Saskatchewan trail to Norton street to cross at right angles under the Grand Trunk Pacific Railway on Norton street, near Edmonton, Alta.

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February 20, 1909.—Inspection proposed crossing of the city of Edmonton Street Railway over the lines of the Canadian Northern Railway and the Grand Trunk Pacific Railway on Syndicate avenue, Edmonton, Alta.

February 22, 1909.—Inspection highway crossing on the Michigan Central Railway and Pere Marquette Railway in the village of Rodney, Ont.

February 22, 1909.—Inspection highway crossing over the Pere Marquette Railway and the Michigan Central Railway in the village of Dutton, Ont.

February 22, 1909.—Inspection highway crossing over the Pere Marquette Railway and the Michigan Central Railway in the village of West Lorne, Ont.

February 22, 1909.—Inspection subway where the Chatham, Wallaceburg and Lake Erie Railway crosses underneath the Michigan Central Railway at Charing Cross, Ont.

February 22, 1909.—Inspection highway crossing on the Michigan Central Railway at Queen street in the village of Tilbury, and also at the Fourth Concession road crossing a short distance east of Tilbury, Ont.

February 25, 1909.—Inspection *re* protection at crossing at London Junction, Ont.

February 26, 1909.—Inspection overhead farm crossing at M.P. 125.12, township of London, on A. Dickie's land, on the line of the Grand Trunk Railway.

February 26, 1909.—Inspection highway crossings in the town of Montmorency by the Quebec Railway, Light and Power Company.

March 1, 1909.—Inspection bridges on the Guelph and Goderich Railway.

March 1, 1909.—Inspection bridges, Webbwood section, Lake Superior division, Canadian Pacific Railway.

March 2, 1909.—Inspection bridges, Cartier section, Lake Superior division, Canadian Pacific Railway.

March 2, 1909.—Inspection St. Catherine street bridge over the Canadian Pacific Railway yards at Hochelaga, Montreal, P.Q.

March 2, 1909.—Inspection location of transmission wires over the Canadian Pacific Railway tracks at Gomez street and Cartier and Talbot avenues, Winnipeg, Man.

March 2, 1909.—Inspection bridges and abutments on the Esquimalt and Nanaimo Railway (Canadian Pacific Railway) four bridges in all.

March 4, 1909.—Inspection bridges Lake Superior division, Soo branch of the Canadian Pacific Railway.

March 23, 1909.—Inspection Gravel Road crossing of the Grand Trunk Railway way, township of Johnson and Tarbutt.

March 4, 1909.—Inspection bridges Owen Sound section, Ontario division, Canadian Pacific Railway.

March 4, 1909.—Inspection bridges North Toronto branch, Canadian Pacific Railway.

March 6, 1909.—Inspection bridges Teeswater section, Ontario division, Canadian Pacific Railway.

March 6, 1909.—Inspection bridges Orangeville section, Ontario division, Canadian Pacific Railway.

March 8, 1909.—Inspection bridges, Port Burwell branch, Ontario division, Canadian Pacific Railway.

March 8, 1909.—Inspection transmission wires crossing of Canadian Pacific Railway by the Saraguay Electric Light and Power Company on Prud'homme avenue, Notre Dame de Grace, P.Q.

March 19, 1909.—Inspection proposed location of the Canadian Pacific Railway Pheasant Hills branch, for a siding near N.E. $\frac{1}{4}$ section 22-17-32, W. 1st, near Rocanville.

March 23, 1909.—Inspection gravel road crossing of the Grand Trunk Railway east of Morrisburg station.

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March 23, 1909.—Inspection location of the Canadian Northern Ontario Railway from north side of Queen street to west side of Cherry street in the city of Toronto, for opening for traffic.

March 23, 1909.—Inspection Canadian Pacific Railway (McGregor-Varco branch) as to flooding of lands near Brookdale, Man.

March 24, 1909.—Inspection crossing of the Canadian Pacific Railway by the Hamilton Radial Railway near Lambton Mills, Ont.

March 25, 1909.—Inspection crossing of the town line road between Sandwich East and Sandwich West by the Michigan Central Railway and the Windsor, Essex and Lake Shore Rapid Railway.

March 26, 1909.—Inspection farm crossing of H. Dynes on the Hamilton Radial Railway one mile west of Burlington, Ont.

March 26, 1909.—Inspection crossings on the Canadian Northern Railway main line near Quill Lake, Sask.

March 26, 1909.—Inspection station on the Canadian Northern at Denholm, Sask.

March 26, 1909.—Inspection road crossings on the Canadian Northern Railway *re* complaint of local improvement district 18-B-3, near Nutana, Sask.

March 26, 1909.—Inspection crossing of the Michigan Central Railway by the Gravel road at the east end of Windsor yard, Ont.

May 27, 1909.—Inspection highway crossings, Local Improvement District 21-J-3 on the Canadian Northern Railway near Maymont, Sask.

March 29, 1909.—Inspection *re* complaint condition of level crossings on the Canadian Northern Railway, mileage 244 also condition of bridge near mileage 243.

March 29, 1909.—Inspection station platform at Togo, Sask., on the main line of the Canadian Northern Railway.

March 30, 1909.—Inspection Temiscouata Railway as to general conditions.

March 30, 1909.—Inspection highway crossing parish of Notre Dame du Lac on the line of the Temiscouata Railway.

March 30, 1909.—Inspection *re* dumping of snow from Victoria Jubilee bridge over the St. Lawrence river by the Grand Trunk Railway.

APPENDIX G.

REPORT OF THE INSPECTOR OF ACCIDENTS OF THE BOARD.

May 11, 1909.

DEAR SIR,—I beg to submit herewith report of the Accident and Equipment Department showing the number of persons killed and injured in train accidents during the period commencing April 1, 1908, and ending March 31, 1909, as per returns furnished by the railway companies in accordance with the Railway Act; and also giving a synopsis of the work done by the inspectors in connection with railway equipment and operation all over Canada.

During the above period 448 persons were killed and 1,201 were injured; they are classified as follows:—

	Killed.	Injured.
Passengers..	26	227
Employees..	191	769
Other persons..	231	205
	<hr/>	<hr/>
Totals	448	1201

Investigations were made by the Board's inspectors in 374 of the above cases and reports on the same were handed to the Board.

The inspectors have also made 300 reports relating to equipment in general, and 35 special reports relating to operation. A general inspection of stations and of crossings was also attended to.

Yours truly,

EUGENE A. PRIMEAU.

A. D. CARTWRIGHT, Esq.,
Secretary, B.R.C. Building.

SESSIONAL PAPER No. 20c

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

STATEMENT showing the number of persons killed and injured on various railways in Canada for year ending March 31, 1909.

NAME OF RAILWAY.	Passengers.		Employees.		Other Persons.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk.....	3	111	46	269	78	82	127	462
Canadian Pacific....	18	47	120	158	113	84	251	289
Canadian Northern.....	1	8	7	170	8	17	16	195
Michigan Central.....		3	3	142	15	7	18	152
Michigan Central and Pere Marquette.....				1		2		3
Montreal Park and Island.....					1	1	1	1
Quebec, Montreal and Southern.....		6	1	3			1	9
St. Lawrence and Adirondack.....		2		1		1		4
Grand Trunk and Intercolonial.....				5	1		1	5
Windsor, Essex and Lake Shore Rapid Co.....			1		7	4	8	4
Central Vermont.....		1	1				1	1
Algoma Central.....			1				1	
Wabash.....		19	1	6	2		3	25
Bay of Quinte.....					1		1	
Alberta Ry. and Irrigation Co....			1	1	1		2	1
British Columbia and Yukon Ry.....		1						1
Esquimalt and Nanaimo.....			1				1	
Thousand Island Ry. Co.....						1		1
Grand Trunk and Can. Pacific..		4	1	2		1	1	7
Dominion Atlantic.....			1	3	1		2	3
New York and Ottawa (Ottawa and N.Y.).....				1		1		2
Canadian Northern and Grand Trunk Pacific.....						1		1
Canadian Pacific and New York Central.....						1		1
Grand Trunk and Toronto Electric Ry.....			1	1			1	1
Great Northern.....			1				1	
Niagara, St. Catharines and Toronto.....			1				1	
Chatham, Wallaceburg and Lake Erie Electric Ry.....	4	22					4	22
Kingston and Pembroke.....		3						3
Moncton and Buctouche.....			1				1	
Canadian Northern, Ontario.....				1	1	1	1	2
Oxford Mountain.....			1				1	
Canadian Northern, Quebec.....			1		1	1	2	1
Teniscouata.....				1				1
Toronto, Hamilton and Buffalo.....					1		1	
Grand Trunk and Canadian Northern, Quebec.....				4				4
	26	227	191	769	231	205	448	1,201

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[illegible]

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THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

STATEMENT showing the character of accidents on various railways in Canada for year ending March 31st, 1909.

CHARACTER OF ACCIDENT.	Passengers.		Employees.		Other Persons.		Totals.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Derailment.....	1	87	10	40	.....	4	11	131
Head-on collision.....	3	23	25	39	.....	2	28	64
Stealing ride.....	.....	.....	.....	.....	2	12	2	12
While shunting.....	.....	.....	1	6	.....	.....	1	6
Level crossing.....	.....	.....	.....	.....	41	54	41	54
Falling off freight cars.....	.....	.....	12	36	3	2	15	38
Trespassing.....	.....	.....	.....	.....	83	57	83	57
Body found on track or bridge.....	1	.....	1	.....	47	.....	49	.....
While switching.....	1	.....	15	39	2	1	18	40
Pitch-in with hand car.....	.....	.....	6	6	2	.....	8	6
Died on train, natural cause.....	1	.....	.....	.....	.....	.....	1	.....
Working under cars.....	.....	.....	.....	4	.....	.....	.....	4
Struck looking out of cab window.....	.....	.....	.....	5	.....	.....	.....	5
Suicide.....	1	.....	1	.....	5	.....	7	.....
Struck by switch stand.....	.....	.....	1	8	.....	.....	1	8
Adjusting couplers, coupling and uncoupling.....	.....	.....	11	60	.....	.....	11	60
Passengers falling off passenger trains.....	7	10	.....	.....	.....	.....	7	10
Working on track.....	.....	.....	22	23	.....	.....	22	23
Working on bridge.....	.....	.....	2	2	.....	.....	2	2
Collision rear end.....	7	50	8	14	.....	.....	15	64
Collision street car and steam car.....	.....	.....	1	1	.....	.....	1	1
Attempted to get on train while in motion.....	1	9	3	17	8	12	12	38
Side ladders.....	.....	.....	.....	7	.....	.....	.....	7
Falling between cars, walking on top of train while in motion.....	.....	.....	1	3	1	.....	2	3
Fell off work train.....	.....	.....	.....	2	.....	.....	.....	2
Falling off hand car.....	.....	.....	1	8	.....	.....	1	8
Farm crossing.....	.....	.....	.....	.....	1	.....	1	.....
Bridge burnt.....	.....	.....	.....	3	.....	.....	.....	3
Collision with cars standing foul or in yard.....	.....	2	.....	6	.....	.....	.....	8
Under construction.....	.....	.....	.....	.....	9	18	9	18
Working under engine.....	.....	.....	1	2	.....	.....	1	2
Locomotive explosion.....	.....	.....	2	.....	.....	.....	2	.....
Jumping off train while in motion.....	3	15	4	17	2	4	9	36
Wash out.....	.....	4	4	2	.....	.....	4	6
Riding on pilot of engine.....	.....	.....	.....	6	.....	.....	.....	6
Working on the cars and engines.....	.....	.....	.....	2	.....	.....	.....	2
Overhead bridge.....	.....	.....	.....	2	.....	.....	.....	2
Fell off tender in attempting to move water spout.....	.....	.....	.....	7	.....	.....	.....	7
Working in shop.....	.....	.....	2	97	.....	.....	2	97
Falling off bridge or trestle.....	.....	.....	6	6	4	4	10	10
Struck by water spout while in motion.....	.....	.....	.....	2	.....	.....	.....	2
Ran into open switch.....	10	5	14	5	24
Unclassified.....	17	46	283	21	35	67	335
Totals.....	26	227	191	769	231	205	448	1,201

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COMPARATIVE STATEMENT of killed and injured between year ending March 31, 1908,
and year ending March 31, 1909.

	Passengers.		Employees.		Other Persons.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Year ending March 31, 1908	64	326	246	806	219	177	529	1,309
Year ending March 31, 1909.....	26	227	191	769	231	205	448	1,201
Increase over 1908.....	12	28
Decrease over 1909.....	38	99	55	37	81	108

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COMPARATIVE STATEMENT in totals of killed and injured between year ending March 31, 1908, and year ending March 31, 1909, for each railway separately.

NAME OF RAILWAY.	1908.		1909.		1909.			
	Killed.	Injured.	Killed.	Injured.	Increase.		Decrease.	
					Killed.	Injured.	Killed.	Injured.
Grand Trunk	165	721	127	462			38	259
Canadian Pacific.....	283	341	251	289			32	52
Canadian Northern.....	19	123	16	195		72	3	
" Ontario.....	2	5	1	2			1	3
" Quebec.....	1	1	2	1	1			
Michigan Central	25	72	18	152		80	7	
Wabash	5	12	3	25		13	2	
Toronto, Hamilton and Buffalo.....	2		1				1	
Vancouver, Westminster and Yukon.....	1						1	
Central Vermont.....	1	6	1	1				5
Dominion Atlantic.....	1	3	2	3	1			
Great Northern.....	4	3	1				3	3
Central Ontario	2						2	
Quebec, Montreal and Southern.....	1	3	1	9		6		
Algoma Central and Hudson Bay.....	2	1					2	1
Pere Marquette.....	4	4					4	4
Atlantic and Lake Superior.....	1						1	
Montreal Terminal	1						1	
Quebec Central.....	3	2					3	2
Kingston-Pembroke.....	1	1		3		2	1	
Montreal Park and Island.....	1		1	1		1		
Vancouver, Victoria and Eastern Ry. and Nav. Co.	1						1	
International Transit Co.....	1						1	
Bay of Quinte.....	1		1					
Quebec Railway Light and Power Co.....	1						1	
Grand Valley Electric Co.....		11						11
Michigan Central and Pere Marquette.....				3		3		
St. Lawrence and Adirondack.....				4		4		
Grand Trunk Intercolonial			1	5	1	5		
Windsor, Essex and Lake Shore Rapid Co.....			8	4	8	4		
Algoma Central.			1		1			
Alberta Railway and Irrigation Co.....			2	1	2	1		
British Columbia and Yukon				1		1		
Esquimalt and Nanaimo.....			1		1			
Thousand Island Railway Co.....				1		1		
Grand Trunk and Canadian Pacific			1	7	1	7		
New York and Ottawa.....				2		2		
Canadian Northern and G. T. P.				1		1		
Canadian Pacific and New York Central				1		1		
Grand Trunk and Toronto Electric.....			1	1	1	1		
Niagara, St. Catharines and Toronto.....			1		1			
Chatham, Wallaceburg and Lake Erie Electric Ry			4	22	4	22		
Moncton and Buctouche.....			1		1			
Oxford and Moncton.....			1		1			
Temiscouata				1		1		
Grand Trunk and Canadian Northern, Quebec.....				4		4		
	529	1,309	448	1,201				
Increase					24	232		
Decrease.....							105	340
Decrease for 1909.....							81	108

COLLISIONS INVESTIGATED DURING YEAR 1908-1909.

COLLISIONS.

Reference to Record.	Date Reported.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident.
No.	1908.	1908.					
584	April 1	Jan. 1	Grand Trunk	Allandale.. ..	....	1	Collision—Switchman allowed engine 546 to back up in face of extra 868 ; in yard.
2900							
600	"	Mar. 24	Grand Trunk	Simcoe, near .....	....	8	Collision, head-on. Train despatcher forgot about extra 198 and issued orders to engine 331, without first securing extra 198.
3214							
645	May 6	Feb. 3	Canadian Northern	Atikokan yard .....	....	2	Collision—Brakes were not applied in time to prevent cars striking car standing in siding.
2978							
647	"	Jan. 13	Canadian Northern	Kamsack yard .....	..	1	Collision—Switch set for siding instead of main line.
2892							
657	"	Dec. 22	Canadian Pacific	Brocket, 4 mile west	1	6	Collision, head-on. Operator received and accepted order from the train despatcher after train had passed his station.
2850							
660	"	Nov. 26	Canadian Pacific	Hank, 2 miles east of .....	....	....	Collision, rear-end. Train ran into train ahead. Engineer did not regard the explosion of one torpedo.
2805							
673	"	May 11	Canadian Pacific	Parry Sound, 5 miles north ..	2	2	Collision, head-on. Supply train, engine 407, north bound, failed to await the arrival of the south bound ballast train at the lifting gang and proceeded without instructions.
704	June 16	April 16	Père Marquette	Leamington, 3 miles west of ..	....	3	Collision, rear-end. No. 2 collided with rear of No. 60.
709	"	May 24	Ottawa Electric Ry	Britannia line, near Barry's hotel.	14	Collision, rear-end. Car No. 260 pitched into car Duchess of York.

COLLISIONS INVESTIGATED DURING YEAR 1908-1909—Continued.

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Reference to Record.	Date Reported.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident.
No.	1907.	1908.					
711 3378	" 16	" 29	Canadian Pacific.....	Owen Sound	2	8	Collision, head-on. Engine 1490 ran away from shop track on to main line and collided with passenger train No. 19.
727 3388	July 2	" 28	Grand Trunk.....	Stratford Yard .....	.....	1	Collision, broadside. Engine 456 collided with side of one car and rear of engine 46.
748 3535	" 13	July 8	Grand Trunk... ..	London.....	.....	14	Collision—Giving signal to No. 22 to enter London passenger station before making sure that switches were properly set.
756 3519	" 27	June 19	Grand Trunk.....	Point St. Charles.....	.....	2	Collision, rear-end. Switchman turned switch and let engine and six cars out on main line after engineer of No. 5 had received proceed signal.
760 3599	" 31	July 27	Canadian Pacific	Homle Yard, east end.....	2	9	Collision, rear-end. Brakeman did not go far enough to protect his train, which was standing. He went only eight telegraph poles.
762 3600	Aug. 6	" 18	Canadian Pacific.....	Port Arthur, 2 miles east.....	.....	4	Collision, head-on. Crew of freight extra forgot about No. 94, and on account of curve engineers did not see each other until it was too late.
765 3618	July 30	" 9	Canadian Pacific.....	Medicine Hat, 1½ miles east..	7	5	Collision, head-on. Engineer did not examine train register before leaving Medicine Hat. Train No. 17 had not yet arrived.
769 3585	Aug. 4	" 11	Grand Trunk.....	Toronto, Union Station.....	.....	4	Collision—Engine 980 collided with forward end of train No. 12.
799 3722	Sept. 25	Aug. 7	Canadian Pacific.....	Peart	1	Collision, head-on. Engine 1298, in charge of watchman, collided with a van coupled to engine 368.

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816	Oct.	5/Sept.	26	Canadian Pacific.....	Islington... ..	1	3	Collision, head-on. No. 50 overran the east switch and collided with No. 55, which was stopped and about to pull into siding.
3816								
825	"	16	"	22 Canadian Pacific.....	Gilbert Station, 1 mile east...	....	2	Collision, rear-end. Failure of brakeman to obey a signal to stop when he ran over a torpedo.
3955								
826	"	16	"	23 Grand Trunk.....	Welland.....	....	....	Collision, rear-end. Failure of brakeman to properly protect his train.
827	"	16	Oct.	7 Grand Trunk and Toronto Electric Ry. Co.	Toronto, near John St.....	1	3	Collision, broadside. Motorman failed to stop and electric car struck side of freight train.
3889								
828	"	16	"	6 Grand Trunk.....	Burford, 2 miles east of.....	3	2	Collision, head-on. Between extra freight west engine 189 and pilot engine 483. The pilot engine was running tender first.
3892								
829	"	16	Sept.	23 Grand Trunk.	Clarkson . . . . .	....	3	Collision, rear-end. Between extra trains east, engines 647 and 811. Weather very foggy.
3842								
830	"	16	Oct.	7 Grand Trunk.	London Yard... ..	1	....	Collision, broadside. Engineer of No. 48 failing to notice position of the switch ahead and running foul of east bound freight main line.
3891								
832	"	23	"	1 Grand Trunk and Canadian Pacific.	Mimico.	1	6	Collision—Switch left open; switch set for siding instead of main line.
3840								
847	"	27	"	15 Canadian Pacific... ..	Parry Sound. . . . .	....	....	Collision—Extra freight engine 371, standing on main track and passenger 94 approaching station.
854	Nov.	10	"	17 Canadian Pacific.....	Stickney.....	2	1	Collision, head-on. Extra No. 91 and extra 517. Engineer of No. 517 for-getting his meet order with 91 at Stickney.
3904								
864	"	27	Nov.	5 Grand Trunk.....	Bowmanville, 1½ miles east of.	3	1	Collision, rear-end. No. 423 running at high rate of speed and coming upon engine 747 before the crew of the engine could be protected by flagman.
4043								
866	"	27	"	14 Canadian Pacific.....	Peterboro.....	....	3	Collision, rear-end. 1st No. 54 and No. 56. Failure of engineer of No. 1st 54 to notice position of distant semaphore.
4035								
868	"	30	"	23 Canadian Pacific.....	Sandbank, 2½ miles west of Peterboro.	3	2	Collision, head-on. Switch set for siding instead of main line.
4100								

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COLLISIONS INVESTIGATED DURING YEAR 1908-1909—Continued.

Reference to Record.	Date Reported.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident.
No. 1909.		1908.					
869	" 30 Oct.	24 Oct.	Canadian Pacific.....	Virden Station.....	.....	4	Collision—Switch set for siding instead of main line, but was noticed in time to prevent a more serious accident.
4010							
873	Dec. 3	Nov. 6	Grand Trunk.....	Danby.....	1	8	Collision, head-on. Failure of train No. 5 to stop at semaphore and extra 92 fouling east switch at east end of yard.
4045							
876	" 3	Aug. 10	Chatham, Wallaceburg & Lake Erie Electric Ry.	Chatham, Queen St.....	4	22	Collision, rear-end. Failure of motorman on car No. 8 to stop, colliding with rear of car No. 14 ahead.
4093							
880	" 9	Dec. 3	Canadian Pacific.....	Pembroke, 1 mile east of ...	1	5	Collision, head-on. Failure of engine 312 to clear for No. 78.
4132							
881	" 9	Nov. 30	Canadian Pacific.....	Bethany, Havelock Section....	...	2	Collision, broadside. Failure to protect No. 798, which was 10 cars foul at the east end of siding, and giving No. 50 signal to proceed.
887	" 23	Dec. 7	Canadian Pacific.....	Fort William ..	2	....	Collision—Defective engine, escaping steam preventing engineer from seeing cars.
4203							
899	Jan. 16	Dec. 2	Grand Trunk.....	Prairie Siding.....	....	2	Collision—Train ran into open switch and struck cars standing on side track.
4191							
910	" 27	Jan. 13	Canadian Pacific.....	Sidewood Station, near.....	2	2	Collision, rear-end. Conductor of extra 580 misread his orders, and ordered engineer to back up, colliding with approaching No. 76.
4392							
915	Feb. 5	" 26	Grand Trunk.....	Harriston, 3¼ miles north....	2	1	Collision, head-on. No. 584 extra freight. Train took wrong track at Harriston and collided with No. 311, engineer giving wrong signal for switch.
4362							

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922	"	17 Feb.	12 Canadian Pacific.....	Hector Station.....	1	1	Collision—Failure of engineer and fireman to notice position of switch.
4407							
926	"	23 Jan.	14 Canadian Pacific	Missiwabi yard.....	1	...	Collision, rear end. Engineer disregarding yard limit board.
4259							
927	"	23 "	16 Canadian Pacific.....	Kemogami.....	1	...	Collision, head-on. Conductor and engineer making a mistake of an hour in the time.
4259							
932	Mar.	6 Feb.	22 Canadian Pacific.	Ingolf Station.....	2	1	Collision, rear-end. Engineer disregarding yard limit board.
4456							
933	"	8 "	23 Michigan Central & Père Marquette.	Springfield.....	...	1	Collision—Brakeman turned switch while P. M. train was inside of the block and had superior right through yard.
4396							
934	"	2 Dec. 1908.	16 Canadian Pacific.	Glen Sutton, 1½ miles north..	1	6	Collision, head-on. Failure of conductor to comply with orders issued and failure of despatcher to issue orders to agent at meeting point.
4207							
936	"	13 Mar. 1909.	5 Canadian Pacific.	Port Arthur Yards.....	...	1	Collision—Disregard of yard limit board, and the man in charge of plough neglecting to give engineer signal.
4420							
940	"	16 Jan.	27 Canadian Pacific.....	Emerald Station .....	...	3	Collision, head-on. Not proper order delivered to engine crew at Field, and also engineer and fireman mistaking engine 1622 for engine 1620.
944	"	22 Mar.	10 Grand Trunk and Canadian Northern, Quebec.	Hawkesbury.....	...	2	Collision, head-on. Conductor of C.N.Q. engine failed to protect his engine, returning from G.T.R. south freight yard to C.N.Q. yard.
4462							
945	"	22 "	10 Canadian Northern . . .	Brandon.....	...	2	Collision, rear-end. Disregarding of yard limit board.
4412-3							

DERAILMENTS INVESTIGATED DURING YEAR 1908-9.
DERAILMENTS.

Reference to Record.	Date of Report.	Date of Accidents.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accidents.
No.	1908.	1908.					
595	Apr.	3 Feb.	26 Grand Trunk.....	Berlin, 1 mile south .....	....	1	Derailment—Caused by the accumulation of snow and ice on public crossing.
3111							
612	"	13 Jan.	15 Grand Valley Electric Ry	Paris ... ..	....	11	Derailment—Caused by snow on track.
3132							
617	"	21 Mar.	28 Grand Trunk.	Seaforth, 4 miles south.....	...	2	Derailment—Culvert washed out on account of heavy rain during the night and early morning.
628	"	28 Feb.	15 Canadian Pa ific.....	Kanaka Tunnel, mt. section..	....	3	Derailment—Train ran into a rock slide.
631	"	28 Dec.	7 Canadian Pacific.....	Hope (near) mt. section. ...	....	2	Derailment—Train ran into a rock slide.
639	May	6 Feb.	6 Can. Pacific	Winnipeg Yard... ..	1	....	Derailment—Car left track on account of a piece of cord wood and ice on track.
3142							
641	"	6 Jan.	30 Canadian Northern	Dauphin Yard.....	...	7	Derailment—Breaking of engine truck spring, which broke apparently as engine was passing switch points.
3957-8 & 9							
654	Aug.	1 Feb.	26 Canadian Pacific	Lethbridge Jct .....	....	....	Derailment—Broken rail.
656	May	15 Mar	15 Canadian Pacific.....	Eagle (near) .....	...	2	Derailment—Ran into open switch, then work engine pitched into wreck.
665	"	1 Feb.	27 Canadian Northern.	Port Arthur Yard.....	1	...	Derailment—Broken tire on the left leading driving wheel.
3060							

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667	"	13	"	10 Canadian Pacific.....	Kenora Yard.....	2	Derailement—Train left rails at switch, cause unknown.
676	"	26 May	19	Canadian Northern.....	Cartier (near), between M. P. 12 & 13.	1	Derailement—Some of the brake gearing breaking and coming in contact with the tender truck wheels.
683	June 11	"	20	Niagara, St. Catharine & Toronto Elec. Ry.	Thorold	2	Derailement—Due to a broken flange on the forward wheel of the rear truck.
696	"	8	"	23 Canadian Pacific	Milestone, 3 miles west	1	Derailement—Broken flange on C.P.R. flat, first car ahead of caboose.
677	"	11 June	1	Canadian Pacific.....	Oxdrift, 10 tel. poles east.....	1	Derailement—A sunkink in the rail
698	"	11 May	25	Canadian Pacific	Crandall, 1 mile east of.....	..	Derailement—Tender of engine left rails, derailling baggage, express, first and second class cars.
703	"	8 Feb.	5	Canadian Pacific.....	Melita, east switch.....	....	Derailement—Broken axle on the trailing tender wheels.
719	"	18 June	9	Wabash & Grand Trunk Joint System.	Stevensville, $\frac{1}{2}$ mile west.....	13	Derailement—Tender of engine 1630 and six cars derailed. Cause unknown.
744	July	6 May	25	Canadian Pacific.....	Edison, 1 mile west Ignace section.	8	Derailement—Dump and track breaking away from the side of the hill as the train came to it.
746	"	6 Apr.	9	Canadian Pacific	McMillan, 1 mile east.....	1	Derailement—A loose boulder rolling down out of the side of a cut and remaining on the track.
752	"	10 June	21	Canadian Pacific	Wakami Station, near M. 91 $\frac{1}{2}$ Chapleau section.	3	Derailement—Sun caused the rails to expand to such an extent that the rails kinked. Track out of line 3 feet.
753	"	18 July	15	Grand Trunk.....	Gilford Station	1	Derailement—Cause unknown.
767	Aug.	4	"	26 Canadian Pacific	Pringle Station, 2 miles east.....	..	Derailement—Cause unknown. Probably due to a sunkink.
776	"	15 June	14	Canadian Northern.....	Star City (near), M. P. 283.....	1	Derailement—Soft piece of track on muskeg.
784	"	27 Aug.	22	Central Vermont.....	St. Lambert, 6 miles south.....	3	Derailement—Tender left rails, causing the whole train to be derailed. Cause unknown.

DERAILMENTS INVESTIGATED DURING YEAR 1908-9.—Continued.

Reference to Record.	Date of Report.	Date of Accidents.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accidents.
No.	1908.	1908.					
789	Sept. 12	Sept. 3	Grand Trunk.....	Gobels, 4 mile west....	....	8	Derailment—Broken rail.
805	" 30	Aug. 6	Canadian Northern . . .	Radison, near M. 519 .....	....	1	Derailment—Running faster than the condition of the track warranted.
3657							
810	Oct. 3	Sept. 14	Canadian Northern	M. 137 east	1	....	Derailment—Breaking of a rail joint. Due to speed in excess of that ordered by the company.
3794							
812	" 3	" 2	Canadian Pacific	M. 4, Pointe Fortune branch.	..	1	Derailment—The tender leading wheel of the leading truck breaking down.
3908							
829	" 6	Aug. 13	Grand Trunk	Kilworthy & Koshee (betw'n)	....	2	Derailment—Eight cars derailed. Cause unknown.
3715							
821	" 9	Sept. 22	Canadian Pacific.....	Austin Station .....	....	....	Derailment—Wheel broke under third car of first 76; second 76 collided with wreckage of first section.
842	" 22	Oct. 15	Grand Trunk.	Allandale, 1 mile north.....	....	6	Derailment—The three rear cars of No. 42 derailed. Cause unknown, probably due to a sunkink caused by first part of train.
3954							
860	Nov. 10	" 24	Canadian Northern	M. 43, Port Arthur section..	1	1	Derailment—Engine derailed. Too high rate of speed with heavy power on light steel.
3950- & 1							
867	" 27	Nov. 18	Grand Trunk.....	Ottawa South, Rideau Jct....	1	1	Derailment—Train left track at switch.
4111							

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820	"	27 Oct.	16 Canadian Pacific.....	Bear Creek	3	Deraiment—Connecting rod on the switch became disconnected and allowed points to shift.
4009							
878	Dec.	3 Nov.	14 Canadian Northern	Winnipeg West Yard.. ....	.....	1	Deraiment—Broken switch rod.
4069							
905	1909. Jan. 20	Dec. 31	Canadian Pacific.. . . .	Gull Lake, 4 miles west	1	8	Deraiment—Breaking of a defective steel rail.
4275							
908	"	26 Jan.	14 Grand Trunk.....	Gourock, 1 mile south .....	.....	30	Deraiment—Tire coming off one of the wheels.
4313							
909	"	25 Nov.	18 Kingston & Pembroke...	M. 56, near Sharbot Lake .....	.....	4	Deraiment Spreading of a rail on a 20 degree curve on 1½ inch elevation.
4094 5 & 6							
923	Feb. 18	Jan. 14	Canadian Pacific.. . . .	Three Valley Station	2	....	Deraiment—Train ran into snow slide.
4333							
930	"	23 "	15 Canadian Pacific.....	Sailor Bar Bluff, M. 19-4 ...	2	43	Deraiment—Trying to run through snow slide.
4358							
939	Mar. 17	"	21 Canadian Pacific.....	Andover, north of 1½ miles .....	.....	4	Deraiment—Broken rail on the inside of curve.
4320							
946	"	29 Mar.	19 Canadian Northern	Regina (nr.) Regina-Prince Albert branch.	...	...	Deraiment—Broken rail.
					

APPENDIX H.

RULES AND REGULATIONS OF THE BOARD.

Since the publication of the last annual report, the following amendments have been made to the Board's Rules and Regulations: On the 1st April, 1908, Rule 1 was rescinded and the following substituted therefor:

1. Regular sittings of the Board will be held at the Court Room, Ottawa, at 10 a.m., on the first Tuesday of every month for the hearing of matters, applications or complaints.

(a) In addition to its regular sittings, the Board may appoint special sittings at Ottawa or elsewhere.

7. (a) Any party to any matter, application or complaint pending before the Board may set the same down for hearing at the next monthly sitting of the Board upon giving at least ten days, or shorter notice as the Board may order, to all parties interested.

(b) When contested matters, applications or complaints are ready for hearing, and are not at once set down by any party interested, the secretary shall set the same down for the first sitting commencing after the expiration of ten days (or such shorter notice as the Board may order) from the date of such setting down.

(c) When a matter, application or complaint is set down for hearing by the secretary, he shall give ten days' notice of hearing (or such shorter time as the Board may order) to all parties interested.

On the 26th January, 1909, the following general regulations affecting highway crossings were approved.

GENERAL REGULATIONS AFFECTING HIGHWAY CROSSINGS.

1. That, unless otherwise ordered by the Board, the width of approaches to rural railway crossings over highways be twenty feet road surface on concession and main roads and sixteen feet on side and bush roads.

2. That a strong, substantial fence, or railing, four feet six inches high, with a good post-cap (four inches by four inches, a middle piece of timber (one and a half inches by six inches), and a ten-inch board firmly nailed to the bottom of the posts to prevent snow from blowing off the elevated roadway, be constructed on each side of every approach to a rural railway crossing where the height is six feet or more above the level of the adjacent ground—leaving always a clear road-surface twenty feet wide.

3. That the width of approaches to rural railway crossings made in cuttings be not less than twenty feet clear from bank to bank.

4. That, unless otherwise ordered by the Board, the planking or paving blocks, or broken stone topped with crushed rock screenings, on rural railway crossings over highways (between the rails and for a width of at least eight inches on the outer sides thereof) be twenty feet long on concession and main roads and sixteen feet on side and bush roads.

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RULES AND REGULATIONS—MAY 1, 1909.

MEETING AT OTTAWA, MONDAY, THE 19TH DAY OF APRIL, A.D. 1909.

The Board, in virtue of the provisions of the Railway Act, hereby makes the following rules and regulations:—

PUBLIC SESSIONS.

1. For the hearing of matters, applications or complaints other than those relating to rates and traffic matters, a sittings will be held at the offices of the Board at Ottawa, Ontario, at 10 a.m., on the first Tuesday in every month, and for hearing all matters, applications and complaints relating to rates and traffic matters, a sittings will be held at the place and hour aforesaid on the third Tuesday in every month.

(a) In addition to its regular sittings, the Board may appoint special sittings at Ottawa and elsewhere.

INTERPRETATION.

2. In the construction of these rules, and the forms herein referred to words importing the singular number shall include the plural, and words importing the plural number shall include the singular number; and the following terms shall (if not inconsistent with the context or subject) have the respective meanings hereinafter assigned to them; that is to say, 'Application' shall include complaint under this Act; 'Respondent' shall mean the person or company who is called upon to answer to any application or complaint; 'Affidavit' shall include affirmation; and 'Costs' shall include fees, counsel fees and expenses.

APPLICATION OR COMPLAINT.

3. Every proceeding before the Board under this Act shall be commenced by an application made to it, which shall be in writing and signed by the applicant or his solicitor; or in case of a corporate body or company being the applicants shall be signed by their manager, secretary or solicitor. It shall contain a clear and concise statement of the facts, the grounds of application, the section of the Act under which the same is made, and the nature of the order applied for, or the relief or remedy to which the applicant claims to be entitled. It shall be divided into paragraphs, each of which, as nearly as possible, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively. It shall be endorsed with the name and address of the applicant, or if there be a solicitor acting for him in the matter, with the name and address of such solicitor. The application shall be according to the forms in schedule No. 1.

The application, so written and signed as aforesaid, shall be left with or mailed to the secretary of the Board, together with a copy of any document, or copies, of any maps, plans, profiles, and books of reference, as required under the provisions of the Act, (a) referred to therein, or which may be useful in explaining or supporting the same. The secretary shall number such applications according to the order in which they are received by him, and make a list thereof. From the said list there shall be made up a docket of cases for hearing which, as well as their order of entry on the docket, shall be settled by the Board. Said docket list when completed to be put upon a notice board provided for that purpose, which shall be open for inspection at the office of the secretary during office hours.

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ANSWER.

4. Unless the Board otherwise directs, the respondent or respondents shall mail or deliver to the applicant, or his solicitor, a written statement containing in a clear and concise form their answer to the application, and shall also leave or mail a copy thereof with or to the secretary of the Board at its office, together with any documents that may be useful in explaining or supporting it. The answer may admit the whole or any part of the facts of the application. It shall be divided into paragraphs, which shall be numbered consecutively, and it shall be signed by the person making the same, or his solicitor. It shall be endorsed with the name and address of the respondents, or if there be a solicitor acting for them in the matter, with the name and address of such solicitor. It shall be according to the form in schedule No. 2.

(a) The time limit for filing and delivery of answer shall be as follows: Where the subject matter of the complaint arises east of Port Arthur, Ont., fifteen days; between Port Arthur and the western boundary of the province of Saskatchewan, twenty days; and west thereof, thirty days.

(a) For further particulars of plans, &c., see regulations in Appendix.

REPLY.

5. Within four days from the delivery of the answer to the application, the applicant shall mail or deliver a reply thereto to the respondents, and a copy thereof to the Secretary of the Board, and may object to the said answer as being insufficient, stating the ground of such objection, or deny the facts stated therein, or may admit the whole or any part of said facts. The reply shall be signed by the applicant or his solicitor, and may be according to form No. 3 in the said schedule.

The Board may, at any time, require the whole or any part of the application, answer or reply, to be verified by affidavit, upon giving a notice to that effect to the party from whom the affidavit is required; and if such notice be not complied with the application, answer or reply may be set aside, or such part of it as is not verified according to the notice may be struck out.

SUSPENSION OF PROCEEDINGS.

6. The Board may require further information, or particulars, or documents from the parties, and may suspend all formal proceedings until satisfied in this respect.

If the Board, at any stage of the proceedings, think fit to direct inquiries to be made under any of the provisions of this Act, it shall give notice thereof to the parties interested, and may stay proceedings or any part of the proceedings thereon accordingly.

NOTICE.

7. In all proceedings under this Act, where notice is required, a copy or copies of said proceeding, or proceedings, for the purpose of service, shall be endorsed with notice to the parties in the forms of endorsement set forth in schedules Nos. 1 and 2; and in default of appearance the Board may hear and determine the application *ex parte*.

Endorsements shall be signed in accordance with the provisions of section 41.

The Board may enlarge or abridge the periods for putting in the answer or reply and for hearing the application, and in that case the period shall be endorsed in the notice accordingly.

Except in any case where it is otherwise provided, ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient; unless, in any

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case, the Board directs longer notice. The Board may, in any case, allow notice for any period less than ten days, which shall be sufficient notice as if given for ten days or longer. (Section 43.)

Notice may be given or served as provided by section 41 of the Act.

When the Board is authorized to hear an application or make an order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice; but any person entitled to notice, and not sufficiently notified, may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend, or rescind such order or decision; and the Board shall thereupon, on such notice to all parties interested as it may in its discretion think desirable, hear such application, and either amend, alter, or rescind such order or decision, or dismiss the application, as may seem to it just and right. (Section 45.)

(a) Any party to any matter, application, or complaint pending before the Board may set the same down for hearing at the next monthly sitting of the Board, upon giving at least ten days, or such shorter notice as the Board may order, to all parties interested.

(b) When contested matters, applications, or complaints are ready for hearing, and are not at once set down by any party interested, the Secretary shall set the same down for the first sittings commencing after the expiration of ten days (or such shorter notice as the Board may order) from the date of such setting down.

(c) When a matter, application, or complaint is set down for hearing by the Secretary, he shall give ten days' notice of hearing (or such shorter time as the Board may order) to all parties interested.

CONSENT CASES.

8. In all cases the parties may, by consent in writing with the approval of the Board, dispense with the form of proceedings herein mentioned, or some portion thereof.

9. If it appears to the Board at any time that the statements in the application, or answer, or reply do not sufficiently raise or disclose the issues of fact in dispute between the parties, it may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the Board.

PRELIMINARY QUESTIONS OF LAW.

10. If it appear to the Board at any time that there is a question of law which it would be convenient to have decided before further proceeding with the case, it may direct such question to be raised for its information, either by special case or in such other manner as it may deem expedient, and the Board may, pending such decision, order the whole or any portion of the proceeding before the Board in such matter, to be stayed.

PRELIMINARY MEETING.

11. If it appear to the Board at any time before the hearing of the application that it would be advantageous to hold a preliminary meeting for the purpose of fixing or altering the place of hearing, determining the mode of conducting the inquiry, the admitting of certain facts or the proof of them by affidavit, or for any other purpose, the Board may hold such meeting upon such notice to the parties as it deems sufficient, and may thereupon make such orders as it may deem expedient.

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PRELIMINARY EXAMINATION WITH THE PARTIES.

12. The Board may, if it thinks fit, instead of holding the preliminary meeting, provided for in Rule 11, communicate with the parties direct, and may require answers to such inquiries as it may consider necessary.

PRODUCTION AND INSPECTION OF DOCUMENTS.

13. Either party shall be entitled, at any time, before or at hearing of the case, to give notice in writing to the other party in whose application, or answer, or reply reference was made to any document, to produce it for the inspection of the party giving such notice, or his solicitor, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put in such documents in evidence on his behalf in said proceedings, unless he satisfy the Board that he had sufficient cause for not complying with such notice.

NOTICE TO PRODUCERS.

14. Either party may give to the other a notice in writing to produce such documents as relate to any matter in difference (specifying the said documents), and which are in the possession or control of such other party; and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

15. Either party may give to the other party a notice in writing to admit any documents, saving all just exceptions, and in case of neglect to admit, after such notice, the cost of proving such documents shall be paid by the party so neglecting or refusing, whatever the result of the application may be; unless, on the hearing, the Board certifies that the refusal to admit was reasonable; and no costs of proving any document shall be allowed, unless such notice be given, except where the omission to give the notice is, in the opinion of the Board, a saving of expense.

WITNESSES.

16. The attendance and examination of witnesses, the production and inspection of documents, shall be enforced in the same manner as its now enforced in a Superior Court of Law; and the proceedings for that purpose shall be in the same form, *mutatis mutandis*, and they shall be sealed by the Secretary of the Board with the seal and may be served in any part of Canada. (Section 26.)

Witnesses shall be entitled, in the discretion of the Board, to be paid the fees and allowances prescribed by schedule No. 4, annexed hereto.

THE HEARING.

17. The witnesses at the hearing shall be examined *viva voce*; but the Board may, at any time, for sufficient reason, order that any particular facts may be proved by affidavit, or that the affidavit of any witnesses may be read at the hearing on such conditions as it may think reasonable; or that any witnesses whose attendance ought, for some sufficient reason, to be dispensed with, be examined before a Commissioner appointed by it for that purpose, who shall have authority to administer oaths, and before whom all parties shall attend. The evidence taken before such Commissioner shall be confined to the subject-matter in question, and any objection to the admission of such evidence shall be noted by the Commissioner and dealt with by the Board at the hearing. Such notice of the time and place of examination as is prescribed in the order shall be given to the adverse party. All examinations taken in pursuance of any

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of the provisions of this Act, or of these rules, shall be returned to the Court; and the depositions certified under the hands of the person or persons taking the same may, without further proof, be used in evidences, saving all just exceptions. The Board may require further evidence to be given either *viva voce* or by deposition, taken before a Commissioner or other person appointed by it for that purpose.

The Board may, in any case when deemed advisable, require written briefs to be submitted by the parties.

The hearing of the case, when once commenced, shall proceed, so far as in the judgment of the Board may be practicable, from day to day.

JUDGMENT OF THE BOARD.

18. After hearing the case the Board may dismiss the application, or make an order thereon in favour of the respondents, or reserve its decision, or (subject to the right of appeal in the Act mentioned) make such other order on the application as may be warranted by the evidence and may seem to it just.

The Board may give verbally or in writing the reasons for its decisions. A copy of the order made thereon shall be mailed or delivered to the respective parties. It shall not be necessary to hold court merely for the purpose of giving decisions.

Any decision or order made by the Board under this Act may be made an order of the Exchequer Court, or a rule order, or decree of any Superior Court of any province of Canada, and shall be enforced in like manner as any rule, order, or decree of such court. To make such decision or order a rule, order or decree of such court, the usual practice and procedure of the court in such matters may be followed, or in lieu thereof the form prescribed in subsection 2, section 46, of the Act.

The Board shall with respect to all matters necessary or proper for the due exercise of its jurisdiction under this Act, or otherwise for carrying this Act into effect, have all such powers, rights and privileges as are vested in a Superior Court. (Section 26.)

ALTERATION OR RESCINDING OF ORDERS.

19. Any application to the Board to review, rescind, or vary any decision or order made by it shall be made within thirty days after the said decision or order shall have been communicated to the parties, unless the Board think fit to enlarge the time for making such application, or otherwise orders.

APPEAL.

20. If either party desire to appeal to the Supreme Court of Canada from the decision or order of the Board upon any question which, in the opinion of the Board, is a question of law, he shall give notice (c) thereof to the other party and to the Secretary, within fourteen days from the time when the decision or order appealed from was made, unless the Board allows further time, and shall in such notice state the grounds of the appeal. The granting of such leave shall be in the discretion of the Board.

For procedure upon such leave being obtained see section 56, subsection 4 *et seq.* of the Act.

An appeal shall lie from the Board to the Supreme Court of Canada upon a question of jurisdiction; but such appeal shall not lie unless the same is allowed by a judge of the said court upon application and hearing the parties and the Board.

The costs of such application shall be in the discretion of the judge.

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INTERIM EX PARTE ORDERS.

21. Whenever the special circumstances of any case seem to so require, the Board may make an Interim *ex parte* order requiring or forbidding anything to be done which the Board would be empowered upon application, notice and hearing to authorize, require or forbid. No such Interim Order shall, however, be made for a longer time than the Board may deem necessary to enable the matter to be heard and determined. (Section 49.)

AFFIDAVITS.

22. Affidavits of service according to the form No. 6 shall forthwith, after service, be filed with the Board in respect of all documents or notices required to be served under these rules; except when notice is given or served by the Secretary of the Board, in which case no affidavit of service shall be necessary.

All persons authorized to administer oaths to be used in any of the Superior Courts of any province, may take affidavits to be used on any application to the Board.

Affidavits used before the Board, or in any proceeding under this Act, shall be filed with the secretary of the Board at its office.

Where affidavits are made as to belief, the grounds upon which the same are based must be set forth.

(c) For form of notice see Form No. 5 in the Schedule hereto.

COMPUTATION OF TIME.

23. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by this Act, or by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day or Good Friday, or a day appointed for a public fast or thanksgiving in the Dominion or any of the provinces, in which case the time shall be reckoned exclusively of that day also.

ADJOURNMENT.

24. The Board may, from time to time, adjourn any proceedings before it.

AMENDMENT.

25. The Board may at any time allow any of the proceedings to be amended, or may order to be amended or struck out any matters which, in the opinion of the Board, may tend to prejudice, embarrass or delay a fair hearing of the case upon its merits; and all such amendments shall be made as may, in the opinion of the Board, be necessary for the purpose of hearing and determining the real question in issue between the parties.

FORMAL OBJECTIONS.

26. No proceedings under this Act shall be defeated or affected by any technical objections or any objections based upon defects in form merely.

PRACTICE OF EXCHEQUER COURT WHEN APPLICABLE.

27. In any case not expressly provided for by this Act, or these rules, the general principles of practice in the Exchequer Court may be adopted and applied, at the discretion of the Board, to proceedings before it.

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COSTS.

28. The costs of and incidental to any proceedings before the Board shall be in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed. The Board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

Schedule No. 1.

(FORMS OF APPLICATION.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. _____ (This No. is to be filled in by the Secretary on receipt.)

A. B. of C. D. hereby applies to the Board for an order under sections 252-253 of the Railway Act, directing the _____ Railway Company to provide and construct a suitable farm crossing where the company's railway intersects this farm in Lot _____ Con. _____ Tp. _____ County of _____ Ontario, and states—

1. That he is the owner of the land, &c.
2. That by reason of the construction of the said railway he is deprived, &c.
3. That it is necessary for the proper enjoyment of his said land, &c.

Dated this _____ day of _____, A.D. 19 ____.

(Signed A. B.)

Endorsements.

The within application is made by A.B. of _____ (state address and occupation) or by C. D. of _____, his solicitor.

Take notice that the within named Railway Company is required to file with the Board of Railway Commissioners within ten days from the service hereof, its answer to the within application.

FORM OF APPLICATION.

(Where no Notice Required.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. _____

The _____ Railway Company hereby applies to the Board for an Order under section 167 of the Railway Act, sanctioning the plans, profiles and books of reference submitted in triplicate herewith, showing a proposed deviation of its line of railway as already constructed between _____ and _____, mileage _____ to _____.

Dated this _____ day of _____, A.D. 19 ____.

Schedule No. 2.

(FORM OF ANSWER.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the Application, No. _____ of A.B. for an order under sections 252-253 of the Railway Act, directing _____ Railway Company to provide a farm crossing.

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The said Company in answer to the said application states:—

- 1. That the said A. B. is not the owner, but merely, &c.
- 2. That upon the acquisition of the right of way of the said Railway, A. B. was duly paid for and released, &c.
- 3. That the said A. B. has other safe and convenient means, &c.
- 4. That, &c.

Dated, &c.

Endorsements.

The within answer is made by A. B. of (state address and occupation) or by C. D. of , his solicitor.

Take notice that the within named Applicant is required to file with the Board of Railway Commissioners within four days from the service hereof, his reply to the within answer.

Schedule No. 3.

(REPLY.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application of A. B. against the Company.

The said A. B., in reply to the answer of the said Company states that:—

- 1.
- 2. And the said A. B. admits that

Dated this day of , A.D. 19 .

(Signed Q.)

Schedule No. 4.

(FEES AND ALLOWANCES TO WITNESSES.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

To witnesses residing within three miles of the Court-room, per diem (not including ferry and meals)	\$1 00
Barristers, attorneys, and physicians, when called upon to give evidence in consequence of any professional services rendered by them, or to give professional opinion, per diem.	5 00
Engineers, surveyors and architects, when called upon to give evidence of any professional services rendered by them, and to give evidence depending upon their skill and judgment, per diem	5 00

If the witnesses attend in one case only, they will be entitled to the full allowance. If they attend in more than one case, they will be entitled to a proportionate part in each case only.

When witnesses travel over three miles they shall be allowed expenses according to the sum reasonably and actually paid, when in no case shall exceed twenty cents per mile one way.

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Schedule No. 5.

(NOTICE OF APPEAL.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. _____, of A.B., for an order under sections 252-253 of the Railway Act, authorizing the Railway, &c., &c.

To the Board of Railway Commisioners,
and

To
The above named Applicant (or Respondent, as the case may be).

Take notice that the _____ Company will apply to the Board on the _____ day of _____, (not exceeding 14 days from the date thereof), for leave to appeal to the Supreme Court of Canada from the Order of the Board, dated the _____ day of _____, in the matter of the above application authorizing the expropriation of certain lands referred to in said Order, and directing that compensation or damages to be awarded to the owners of said lands, or persons interested therein, shall be ascertained as and from the date of the application (or such other time as may be named in this Order).

The grounds of appeal are that as a matter of law, the awarding of such compensation or damages should be ascertained and deterimined from the date of the deposit of plan, profile, &c., as provided under section 192 of the Act, and not from the time stated in the Order.

Dated this _____ day of _____

Signed,

Solicitor, &c.

Schedule No. 6.

(FORM OF AFFIDAVIT OF SERVICE.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. _____ A.B., for an Order under sections 252-253 of The Railway Act, directing Railway Company to provide a farm crossing.

I, _____ of the City of Ottawa, &c., make oath and say:—

1. That I am a member, &c.

2. That I did on _____ 19, _____ serve the (C.P.) Railway Company above names, with a true copy of the (application of the said (A.B.) in this matter by delivering the same to (C.D.), the (Secretary) of the said Company, (or to E.F., the Asst. to the Gen. Mgr.) of the Company, being an adult person in the employ of the Company, at the head office of the Company in (Montreal) see section 41 (a), which said copy was endorsed with the following notice, viz.:—

(Copy exactly.)

Sworn, &c.

Requirements on Application having Reference to Plans.

No. 1.—GENERAL LOCATION OF RAILWAY.—SECTION 157.

Send to secretary of the Department of Railways and Canals: 3 copies of *map* showing the general location of the proposed line of railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tide-water, if any, to be crossed by the railway,

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and such as may be within a radius of thirty miles of the proposed railway, and generally the physical features of the country through which the railway is to be connected.

- 1st copy to be examined and approved by the Minister and filed in the Department of Railways and Canals.
- 2nd copy to be approved by Minister for filing by the Minister with the Board.
- 3rd copy to be approved by Minister for the Company.

Scale of Map—not less than 6 miles to the inch.

No. 2.—PLAN, PROFILE, &C., OF LOCATED LINE.—Section 159.

Upon approved general location map being filed by the Minister with the Board, send to the Secretary of the Board three sets of plans, prepared exactly in accordance with the ‘general notes’* as follows:—

- 1st set—

{	1 plan.	}	For sanction and deposit with the Board.
	1 profile.		
	1 book of reference.		
 - 2nd set—Same as 1st.

{	To be certified as copy of original and returned to the Com-
 - 3rd set—Same as 1st.

{	To be certified as copy of original and returned to Com-
- Scale—Plans—400 feet to the inch.
Profiles.

{	Horizontal, 400 feet.
}	Vertical, 20 feet.

(N.B.—In prairie country, scale may be 1,000 feet to the inch.)

No. 3.—TO ALTER LOCATION OF CURVES OR GRADES OF LINE PREVIOUSLY SANCTIONED OR COMPLETED.—Section 167.

Send to the secretary of the Board three sets of plans, profiles and books of reference as required in No. 2.

(N.B.—The plans and profiles so submitted will be required to show the original location, grades and curves and railway highway and farm crossings, and the changes desired or necessitated in any of these, giving reason for same. Upon completion of the work application must be made to the Board for leave to operate.

Scale—Same as No. 2.

No. 4.—PLANS OF COMPLETED RAILWAY.—Section 164.

Send to the Secretary of the Board within six months after completion three sets of plans and profiles of the completed road.

- 1st set to be filed with the Board.
- 2nd set to be certified as copy of plan filed, and returned to the Company.
- 3rd set to be certified as copy of plan filed. To be returned to the Company for registration purposes.

Scale—Same as No. 2.

No. 5.—TO TAKE ADDITIONAL LANDS FOR STATIONS, SNOW PROTECTION, &C.—Section 178.

Send to the secretary of the Board three sets of plans and documents as follows:—

- 1st set—

{	1 application sworn to by officers	}	To be examined and certified and deposited with Board.
	required to sign and certify		
	plans. See ‘General Notes.’		
	1 plan, 1 profile.		
{	1 book of reference.	}	

* General Notes, see pages 17 and 18.

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- 2nd set—Same as 1st. { For certificate and return for registration, with duplicate authority.
- 3rd set—Same as 1st. { For certificate and return to Company, with copy of authority.

Scale—Same as No. 2.

N.B.—Ten days' notice of application must be given by the applicant Company to the owner or possessor of the property, and copies of such notice with affidavits of service thereof must be furnished to the Board on application.

No. 6.—BRANCH LINES, not exceeding six miles—Sections 221-225.

Where a branch line runs directly from the right of way of the railway Company on to the property of any person requiring such a line, the four weeks' public notice of application to the Board may be dispensed with. The Company must, however, furnish the consent of the owner of the land to the construction of the branch line. (a) 1 plan, profile and book of reference same as No. 2 to be deposited in Registry Office.

Upon such registration four weeks' public notice of application to the Board to be given. Where such a branch crosses a highway, consent of municipality must be furnished with application, or evidence of service of 10 days' notice to the municipality with copies of application and plans accompanying same.

Send to the secretary of the Board an application with copies of the plan, profile and book of reference certified by the Registrar as a duplicate of those so deposited in the Registry Office.

After the Board has approved of the plan, &c., a certified copy of the Order authorizing the construction of the branch lines to be registered together with any papers and plans showing changes directed by the Board.

A map showing the adjacent country, neighbouring lines, &c., must be sent to the secretary of the Board with the application.

Proof of registration, and of public notice except as above mentioned having been duly given will be required upon the application.

Scale—Same as No. 2.

No. 7.—RAILWAY CROSSINGS OR JUNCTIONS.—Section 227.

Send to the secretary of the Board with an application three sets of plans and profiles of both roads on either side of the proposed crossing for a distance of one mile in each direction.

Scale—Plan—400 feet to the inch.

Profile. { 400 feet to inch horizontal.
 { 20 feet to inch vertical.

1st set approved by and filing with the Board.

2nd and 3rd sets to be certified and furnished to the respective companies concerned, with certified copy of order.

The applicant Company must give ten days' notice of application to the company whose lines are to be crossed or joined, and shall serve with such notice a copy of all plans and profiles and a copy of the application. Upon completion of work application must be made to the Board for leave to operate.

No. 8.—HIGHWAY CROSSING—Sections 235 to 243.

Send to the secretary of the Board with an application three sets of plans and profiles of the crossings.

Scale—Plan—400 feet to inch.

Profile. { 400 feet to an inch horizontal.
 { 20 feet to an inch vertical.

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Profile of highway. { 100 feet to an inch horizontal.
 { 20 feet to an inch vertical.

1st set for approval by and filing with the Board.

2nd and 3rd sets to be furnished to the respective parties concerned, with a certified copy of the order approving the same.

The plan and profile shall show at least one-half a mile of the railway each way and 300 feet of the highway on each side of the crossing.

Plan must show intervening obstructions to the view from any point on the highway within 100 feet of the crossing to any point on the railway within one-half mile of said crossing.

If the company prefers, the above information may be shown on the location plan, and this plan may be used in connection with its application for approval of the highway crossing.

The applicant must give ten days' notice of the application and copies of plan to the municipality in which the proposed crossing lies, and furnish Board with proof of service.

1. That, unless otherwise ordered by the Board, the width of approaches to rural railway crossings over highways be twenty feet road surface on concession and main roads and sixteen feet on side and bush roads.
2. That a strong, substantial fence, or railing, four feet six inches high, with a good post-cap (four inches by four inches), a middle piece of timber (1½ inches by 6 inches), and a ten-inch board firmly nailed to the bottom of the posts to prevent snow from blowing off the elevated roadway, be constructed on each side of every approach to a rural railway crossing where the height is six feet or more above the level of the adjacent ground—leaving always a clear road-surface twenty feet wide.
3. That the width of approaches to rural railway crossings made in cuttings be not less than twenty feet clear from bank to bank.
4. That, unless otherwise ordered by the Board, the planking, or paving blocks, or broken stone topped with crushed rock, screenings, on rural railway crossings over highways (between the rails and for a width of at least eight inches on the outer sides thereof) be twenty feet long on concession and main roads and sixteen feet on side and bush roads.

No. 9—CROSSINGS WITH TELEGRAPH, TELEPHONE OR POWER WIRES.—Section 246.

Send to the secretary of the Board, with the application, a plan and profile in triplicate. The plan must show the location of the track or tracks to be crossed, the location of poles and their perpendicular distance from the track. The profile must show the height of poles, distance between the wires and the rails, and between the different lines of wires.

In the case of crossings with power wires, the details of construction and the method of protection must be shown.

A copy of the plan and profile must be sent to the railway company with notice of application.

In the case of power crossings, application to operate must be made to the Board upon completion of the work.

No. 10.—CROSSING WITH PIPES FOR DRAINS, WATER SUPPLY, GAS, &c.—Section 250.

Send to the secretary of the Board, with the application, a plan and profile in triplicate. The plan must show the track or tracks proposed to be crossed. The profile must show the distance between the pipe and the base of rail, the size of

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the pipe, and the material of which it is constructed. A copy of the plan and profile must be sent to the railway company with notice of application.

No. 11.—CROSSINGS AND WORKS UPON NAVIGABLE WATERS, BEACHES, &c.—Section 233.

Upon site and general plans being submitted to Department of Public Works and being approved by the Governor in Council, sent to the secretary of the Board:—
Certified copy of Order in Council with plans and description approved thereby and so certified—one application and two sets of detail plans, profiles, drawings and specifications.

The plans must show details of construction of piers and their foundations, also details of superstructure, if standard plan of the same has not already been approved.

The profile must show the cross-section of the river or stream at the place of crossing and high and low water marks.

The name of the river or stream, and the mileage of the bridge should be given.

Upon completion of work application must be made to the Board for leave to operate.

No. 12—BRIDGES, TUNNELS, TRESTLES, &c., over 18 feet span.—Section 257.

(a) Must be built in accordance with standard specifications and plans, approved of by the Board.

(b) Or detail plans, profiles, drawings, and specifications, which may be blue, white or photographic prints, must be sent to the Secretary of the Board for approval, &c., as in No. 11.

Upon completion of the work application must be made to the Board for leave to operate.

No. 13.—STATION GROUNDS AND STATION BUILDINGS.—Section 258.

Send to the Secretary of the Board:—

2 sets of plans showing the location, and details of structures, and yard tracks.

1st set for filing with the Board.

2nd set to be certified and returned to Company with certified copy of order of approval.

NOTE.—If approved plans, showing location, &c., of a station, are on file with the Board, and such station were burned, a letter from the company that it intended to erect another station of the same plan and location, would call from the Board an approval and waiver of filing new plans, unless the local conditions had so changed since the original station was erected, that public convenience called for enlarged facilities or change of location.

GENERAL NOTES.

Plans (for Nos. 2 to 6) must show the right of way, with lengths of sections in miles, the names of the terminal points, the station grounds, the property lines, owners' names, the areas and length and width of land proposed to be taken, in figures (every change of width being given) the curves and bearings, also all open drains, watercourses, highways, and railways proposed to be crossed or affected.

Should the company at any time require right of way more than 100 feet in breadth for the accommodation of slopes and side ditches, it will be necessary to place on the plan cross-sections of the right of way, taken one hundred feet apart and extending to the limits of the right of way proposed to be taken.

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Profiles shall show the grades, curves, highway and railway crossings, open drains and watercourses, and may be endorsed on the plan itself.

Books of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving numbers of the lots, and the area, length and width of the portion thereof proposed to be taken, and names of owners and occupiers so far as they can be ascertained.

All plans, profiles and books of reference must be dated and must be certified and signed by the President or Vice-President or General Manager, and also by the Engineer of the company.

The plan and profile to be retained by the Board must be on tracing *linen*, the copies to be returned may be either white, blue, or photographic prints.

All profiles shall be based, where possible, upon sea level datum.

All books of reference must be made on good thick paper and in the form of a book with suitable paper cover. The size of such books when closed shall be as near as possible to 7½ inches by 7 inches, or book of reference may be endorsed on the plan.

FORM OF BOOK OF REFERENCE REQUIRED.

..... Railway Company.
.....Division or Province.....Branch.

BOOK OF REFERENCE TO ACCOMPANY LOCATION PLAN SHOWING LANDS REQUIRED
FOR RAILWAY PURPOSES.

Station to	Station.	Width of Railway	Owner.		Centre of Book when open.	Part of	Section or Lot.	Township Parish Block or Number of Claim.	Range	Contents Acres.	Remarks.

INTERLOCKING SYSTEM.

Rules governing the use of Interlocking and Derailing Signals and speed of trains where one railway crosses another at rail level, or where a railway crosses a draw-bridge.

- 1. The normal position of all signals must indicate danger.
- 2. When the distant semaphore indicates caution, the train passing must be under full control and prepared to come to a full stop before reaching the home signal.
- 3. When the home signal indicates danger, it must not be passed.
- 4. When clear signals are shown where one railway crosses another at rail level, the speed of passenger trains must be reduced to thirty-five miles an hour and freight trains to twenty miles an hour, until the entire train has passed the crossing.
- 5. When clear signals are shown where a railway crosses a drawbridge, the speed of passenger trains must be reduced to twenty-five miles an hour and the speed of freight trains to fifteen miles an hour, until the entire train has passed the draw-bridge.

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General Requirements Applicable to Steam Railways for Interlocking, Derailing and Signal System at Crossings at Rail Level, at Junctions and at Drawbridges.

The plan and construction of interlocking, signalling and derailing system to be used at rail level crossings, junctions and drawbridges, shall conform to the following rules:—

1. Derails shall be placed not less than five hundred (500') feet from the crossing point, junction point or from the ends of the drawbrige unless otherwise ordered. On single track railways derail points, when practicable, should be on inside of curve, and on double track railways the derail points should be in outside rail on both tracks. On the latter back-up derails will be required.

2. Home signals shall be placed fifty-five (55') feet in advance of derail point, and the distance between home and distant signals shall not be less than twelve hundred (1,200') feet, unless otherwise ordered. Signal post shall be placed over or on the engineman's side of the track, unless otherwise ordered.

3. Guard rails shall be laid on outside of rail in which the derail is placed, or on the inside of the opposite rail, and, commencing at least six (6') feet in advance of derail point, shall extend thence towards the crossing, parallel with and nine (9") inches distant in the clear from the track rail, for four hundred (400') feet, fully spiked. In no instance, however, should the guard rail approach within one hundred (100') feet of the diamond, junction point or end of drawbridge.

4. The normal position of all signals must indicate danger, derail points open unless otherwise ordered, and the interlocking so arranged that it will be impossible for the signalman to give conflicting signals.

5. Signals shall be of the semaphore type, the indications given by not more than three positions, and in addition at night by lights of prescribed colours.

6. The apparatus shall be so constructed that the failure of any part directly controlling a signal will cause it to give its least favourable indication.

7. Sempahore arms that govern shall be displayed to the right of the signal post, as seen from an approaching train.

8. Where switch and lock movements are used on facing point switches or derails on high speed routes they must be placed outside the rails and bolt locked with the signals governing them; when this is not practicable, facing point locks must be used.

9. The established order of interlocking shall be such that a clear signal cannot be displayed until derails or diverging switches, if any, in conflicting routes, are in their normal position, and the switches for the required route are set and locked.

10. High speed routes shall be indicated by high signals not more than three blades to be displayed on one signal post. Dwarf signals shall be used for low speed routes and for double track back-up derails.

11. The blades and back lights of all signals should be visible to the signalman in the tower. If from any cause, the blade or light of any signal cannot be placed so as to be seen by the signalman a repeater or indicator should be provided.

12. Application for inspection of interlocking plant must be made to the Board, accompanied by a plain diagram, showing location of the crossing, junction or drawbridge, and the position of all main tracks, sidings, switches, turnouts, &c., within the limits of the interlocker.

The several tracks must be indicated by letters or figures, and reference made to each, explaining the manner of its use. The rate of grade on each main track must be shown, together with the number of signals, derails, locks, &c., corresponding to levers in the tower.

Details.

13. The machine shall be of the latch locking type, and levers shall be numbered from left to right.

14. One lever shall operate not more than one signal.

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Pipe Line.

15. One inch pipe of soft steel or wrought iron shall be used for connections to switches, derails, movable wing and point frogs, detector bars, locks, bridge couplers and home signals.

(a) Pipe lines shall be straight where possible, and shall not be placed less than four feet (4') from gauge line, except where the lines run between tracks. On draw spans and approaches, they shall be kept as far from the gauge line as conditions will permit.

(b) Pipe lines shall be supported on pipe carriers, spaced not more than seven (7') feet apart.

(c) Couplings in pipe lines shall be located not less than twelve (12) inches from pipe carriers with lever on centre.

(d) Pipe connections shall be made with threaded sleeves, and the joints plugged and riveted; or keyed or by other approved method.

Wire Line.

16. Wire connected signals shall be operated by wires, the back wire to have two (2'') inches more stroke than the front wire.

(a) Wire lines shall be carried in wire carriers placed not more than forty (40') feet apart. Where wire lines run next to the pipe lines, the wire carriers shall be attached to the pipe carrier foundations if convenient. Where wire carriers are attached to independent foundations, they shall be placed not less than six (6') feet from gauge of nearest rail, where practicable.

By order of the Board,

A. D. CARTWRIGHT,

Secretary.

APPENDIX I.

CATALOGUE OF BOOKS IN LIBRARY OF THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

American Electrical Cases, 7 vols.

American Railway Reports, vols. 1 to 21 (vol. 1, Trueman; vols. 2, 3, 4 and 5, Mallory; 6, 7, 8 and 9, Shipman; 10 to 21, Ladd; Ladd includes 20 and 21 Clemens.)

America R.R. & Corporation Reports, Lewis, 12 vols.

American and English R.R. Cases, old series, 61 vols.; Digest, vols. 1-35, 36-43 (2 vols.)

American and English R.R. Cases, new series, 52 vols.; Digest, vols. 1-23, 24-43 (2 vols.)

American Street Railway Decisions, Richardson & Hook, 2 vols.

Annual Report R.R. Commission of Georgia, 1905, 1906 and 1907.

Annual Report of the R.R. & W. Commission of Illinois, 1905, 1906.

Annual Report of the R.R. Commission of Louisiana, 1905.

Annual Report of the R.R. Commissioners of Mass., 1905, 1908.

Annual Report of the Commissioner of Railroads of Michigan, 1904, 1906.

Annual Report of the R.R. & W. Commission of Minnesota, 1891-97, 1899-1907.

Annual Report of the Chief of Engineers of the United States Army, 1894, 6 vols.

Annual Report of the Interstate Commerce Commission, 1887-1907.

American and English Encyclopedia of Law, 32 vols.

American and English Encyclopedia of Law, supplement, vols. 3, 4.

Annual Supplements, 1898-1908, incl.

Armstrong's Digest N.S. Reports, 1 vol.

Anderson's Dictionary of Law.

Abbott's Railway Law of Canada, 2 vols.

Abbott on Telephony, 6 vols.

Abbott on Electrical Transmission of Energy.

Allen's Telegraph Cases.

Adams on the Block System.

Anderson—Index Digest of Interstate Commerce Law.

Ashe—Electric Railways.

Audette—Practice of the Exchequer Court.

Acts of the Provinces and of Canada Not Repealed by the Revised Statutes, 1887.

Actes du Canada et des Provinces non abrogés par les Statuts Révisés, 1887.

Acts of Assembly, 1878-1882, 1 vol.

Acts of Assembly, 1883-1886, 1 vol.

British Columbia Reports, 13 vols.

Beavan & Walford Railway Cases.

Beaudry-Lacantinerie, Droit Civil.

Beullac—Code de Procedure Civile.

Bird's Digest, B.C. Case Law, 1 vol.

Bouvier's Law Dictionary, 2 vols.

Beach's Law of Railways, 2 vols.

Baldwin—American Railroad Law.

Beach's Railway Digest, Annual, 1889.

Beach—Monopolies and Industrial Trusts.

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- Beal on Bailments.
- Beal—Cardinal Rules of Legal Interpretation.
- Beal & Wyman—Railroad Rate Regulation.
- Beauchamp—Jurisprudence of the Privy Council.
- Bell & Dunn's Practice Forms.
- Bigg—General Railway Acts, 15th Ed., 1898.
- Biggar—Municipal Manual, 11th Ed., 1900.
- Blakemore—The Abolition of Grade Crossings in Massachusetts.
- Bligh & Todd—Dominion Law Index, 2nd Ed., 1898.
- Booth—Street Railways.
- Boulton—The Law and Practice of a Case Stated.
- Boyle & Waghorn—The Law relating to Railway and Canal Traffic, 3 vols.
- Boyle & Waghorn—The Law and Practice of Compensation.
- Brice—Ultra Vires, 3rd Ed., 1893.
- Brice—Tramways and Light Railways, 2nd Ed., 1902.
- Broom's Legal Maxims, 7th Ed., 1900.
- Browne—The Law of Compensation, 2nd Ed., 1902.
- Browne—Law of Carriers.
- Browne's Practice before the Railway Commissioners.
- Browne & Theobald—Law of Railways, 3rd Ed., 1899.
- Bligh's Ontario Law Index to 1900.
- Butterworth—Railway and Canals, 2nd Ed., 1889.
- Butterworth—Practice of the Railway and Canal Commission.
- Car Builders' Dictionary, 1906.
- Century Dictionary and Cyclopedia, 10 vols.
- Canadian Railway Cases, vols. 1-7
- Canadian Railway Act (Annotated) MacMurchy & Dennison.
- Cartwright on British North America Cases, 5 vols.
- Code Civil de la Province de Quebec, M. Mathieu.
- Code de Procedure Civile, Montreal, C. Theoret.
- Cyclopedia of Law and Procedure, vols. 1-29, 1907; Annotations, 1 vol.
- Coutlee's Digest Supreme Court Reports.
- Canadian Annual Digest, 1896-1907.
- Congdon's Digest, N.S. Reports, 1 vol.
- Canada Law Journal, vols. 41, 42, 43.
- Canadian Law Review, vols. 3, 4, 5, 6.
- Cartwright's Canadian Law List, 1906-1908.
- Carmichael's Law of the Telegraph, Telephone and Submarine Cable.
- Chambers—Parliamentary Guide, 1909.
- Chitty's K.B. Forms, 13th Ed., 1902.
- Canadian Annual Review, 1906, 1907.
- Chitty's Archbold's Q.B. Practice, vols. 1 and 2, 14th Ed., 1885.
- Clarke—Street Railway Accident Law, 2nd Ed., 1904.
- Clements—Canadian Constitution, 2nd Ed., 1904.
- Clode—Rating of Railways.
- Cooley—Taxation, vols. 1 and 2, 3rd Ed., 1903.
- Connors—Report of the Working of American Railways.
- Copnall—A Practical Guide to the Administration of Highway Law.
- Cowles—A General Freight and Passenger Post, 4th Ed., 1905.
- Croswell—The Law Relating to Electricity.
- Currier—Railway Legislation of the Dominion of Canada, 1867-1905.
- Consolidated Statutes of New Brunswick, 1903, vols. 1 and 2.
- Consolidated Ordinances, N.W.T., 1898.
- Complement des Statuts de Quebec, 1888.

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- Consolidated Ordinances of the Yukon Territory, 1902.
 Daviel, Des Cours d'Eau, 3 vols.
 Digest American Reports, 2 vols.
 Digest U.S. Supreme Court Reports, vols. 1-206, 6 vols.
 Digest U.S. Supreme Court Reports, vols. 1-186, 4 vols.
 Digest Canadian Case Law, 1 vol. 1901-1905, incl.
 Dale & Lehmann's English Overruled Cases, vols. 1 and 2.
 Daniell—Chancery Forms, 5th ed., 1901.
 Darlington—Railway Rates.
 Darlington—Railway and Canal Traffic Acts.
 Denton—Municipal Negligence (Highways.)
 Disney—Carriage by Railway.
 Dictionary of Altitudes in Canada, 1903.
 Dodd—Law of Light Railways.
 Dorsey—English and American Railroads compared.
 Duff on Merchants Bank and Railroad Bookkeeping, 20th Ed., 1888.
 Encyclopedia Britannica, 35 vols.
 English Reports (reprints), 91 vols.
 English Law Reports (complete set to 1908).
 Exchequer Court Reports, 10 vols.
 English Railway and Canal Cases, Nichol, 6 vols.
 English Railway and Canal Traffic Cases, Brown, Macnamara and Neville, 12 vols.
 English Ruling Cases, 26 vols and sup. vol. 27.
 Encyclopedia of the Laws of England, 2nd Ed., 12 vols.
 E. C. Clifton and A. Grunaux—A new Dictionary of the French and English Languages.
 Ewart's Digest Manitoba Law Reports, 1 vol.
 Elliott on Railroads, vols. 1, 2, 3 and 4.
 Elliott on Roads and Streets, 2nd Ed., 1900.
 Endlich on Statutes.
 Eddy on Combinations, vols. 1 and 2.
 Fuzier-Herman, Code Civil, 4 vols. sup, 2 vols.
 Fuzier-Herman, Repertoire due Droit Francais, 37 vols. (Vols, 13 to 37 include Carpentier-Saint).
 Farnham's Water and Water Rights, vols, 1, 2 and 3.
 Fetter—Carriers of Passengers, vols. 1 and 2.
 Fry—Specific Performance, 3rd Ed., 1892.
 Gilbert—American Electrical Cases, 1903-4, vol. 8.
 Gillette, Halbert P.—Handbook of Cost Data.
 Glen on Highways, 2nd Ed., 1897.
 Goodeve—Railway Passengers, 2nd Ed., 1885.
 Gould on Waters, 3rd Ed., 1900.
 Gray—Communication by Telegraph.
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 Grierson—Railway Rates English and Foreign.
 Grunaux, A, and Clifton, E.C.—A new Dictionary of the French and English Languages.
 Hadley—Railway Transportation, 16th impression, 1903.
 Haines—Railway Corporations as Public Servants.
 Haines—Restrictive Railway Legislation.
 Hamilton—Railway and other Accidents.
 Hamilton—Railroad Laws of New York, 1906-7.
 Hamlin—Interstate Commerce Acts Indexed and Digested.

- Hardcastle's Statute Law, 3rd Ed., 1901.
 Hay, Jr., on the Law of Railway Accidents in Massachusetts.
 Hendrick—Railway Control by Commissions.
 Henderson—Ditches and Water Courses, 1895.
 High on Injunctions, vols. 1 and 2, 4th Ed., 1905.
 Hodges on Railways, by J. M. Lely, vols. 1 and 2, 7th Ed., 1888.
 Hodgins—Dominion and Provincial Legislation, 2nd Ed., 1887-1895.
 Holmested & Langton—Ontario Judicature Act, 3rd Ed., 1905.
 Holmestead & Langton—Forms and Precedents.
 Holt—Canadian Railway Law.
 Hopkins—The Law of Personal Injury.
 Hudson—Compensation, vols. 1 and 2.
 Hutchinson on Carriers, 2nd Ed., Mechem, 1891.
 Hutchinson's Carriers, vols. 1, 2 and 3, 3rd Ed., 1906.
 Interstate Commerce Commission Reports, vols. 1-5.
 Interstate Commerce Reports, vols. 1-9; 3 copies of 10; 3 of 11; 2 of 12; 13.
 Index of Cases Reported in Law Reports, 1905-1908.
 Imperial Statutes, 1876.
 Index to Quebec Official Reports.
 Joyce—Electric Law.
 Judson—Interstate Commerce.
 Kent's Index to Cases Judicially Noticed in the Law Reports.
 Keasbey—Electric Ways, 2nd Ed., 1900.
 Kerr—Injunctions, 4th Ed., 1903.
 Kirkman—The Science of Railways, 12 vol.
 Law Times Reports, 98 vols.
 Lower Canada Reports, 17 vols.
 Lower Canada Jurists, 1-34.
 Legal News, 20 vols.
 La Thémis, 5 vols.
 La Revue de Jurisprudence, 13 vols.
 Langelier, Cours de Droit Civil, vols. 1 to 4.
 Larombiere, 5 vols.
 Langelier, De La Preuve, vol. 1.
 Laurent, Droit Civil, vols. 1-33; Sup. 8 vols.
 Littré et Beaujeu—Dictionnaire de la Langue Francaise, avec un Supplément d'Histoire et de Géographie.
 Lafleur—Conflict of Laws.
 Lefroy's Legislative Power in Canada.
 Leggett—Bills of Lading.
 Lewis—Eminent Domain, vols. 1 and 2, 2nd Ed., 1900.
 Lovell's Compendium, 1907-1908.
 Lovell's Gazetteer of the Dominion of Canada.
 Laws of P.E.I., 1873-1902.
 Laws of P.E.I., 1907, 1 vol.
 Murray's English Dictionary, 7 vols.
 Manitoba Reports, Temp. Wood, 2 vols.
 Manitoba Law Reports, 17 vols.
 Montreal Law Reports, S.C., 7 vols. Q. B., 7 vols.; Digest by Saint Cyr.
 Mignault, 3 sets, 7 vols.
 Mews' Digest of English Case Law, 16 vols.
 McDermott—Railways.
 McPherson & Clarke—Law of Mines.
 Macnamara—Law of Carriers.

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- Mann—Massachusetts Railroad and Railway Laws, 1908.
 Maxwell on Statutes, 4th Ed., 1905.
 Mayne on Damages, 7th Ed., 1903.
 Mayer—British State Telegraphs.
 Meyer—Municipal Ownership in Great Britain.
 Meyer—Public Ownership and the Telephone in Great Britain.
 Michigan Railroad Laws, 1905-07.
 Moore on Carriers.
 New Brunswick Reports, 38 vols.
 New Brunswick Equity Reports, 3 vols.
 Nova Scotia Reports, Young's Admiralty, 1 vol.
 Nova Scotia Reports, 41 vols.
 Nouveau Dictionnaire, Anglais-Francais et Francais-Anglais.
 Nellis—Street Railroad Accident Law.
 Nellis—Street Service Railroads.
 Nelson—The Anatomy of Railroad Reports.
 Newcombe—Railway Economics.
 Nova Scotia Laws, 1865-1871, 1 vol.
 Nova Scotia Laws, 1872-1877, 1 vol.
 Nova Scotia Laws, 1878-1882, 5 vols.
 Nova Scotia Statutes, 1883.
 Nova Scotia Laws, 1884.
 Nova Scotia, Revised Statutes of, fifth series, 1884..
 Nova Scotia, Revised Statutes of, fourth series, 1 vol.
 Nova Scotia Laws, 1885-1892, 6 vols.
 Nova Scotia Statutes, 1893-1899, 7 vols.
 Nova Scotia, Revised Statutes of, 1900, 2 vols.
 Nova Scotia Judicature Act, 1900.
 Nova Scotia Statutes, 1900-1907, 7 vols.
 Ottawa Directory, 1908.
 Ontario Railway Digest, 1 vol.
 Ontario Digest Case Law, 4 vols., sup. 1 vol.
 O'Brien's Conveyancer, 3rd Ed., 1906.
 Oxley's Light Railways, vols. 1 and 2.
 Official Postal Guide of Canada, 1904, 1906.
 Ordinances, N.W.T., 1878-1898.
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 Ontario, Statutes of, 1877-1887.
 Ontario, Revised Statutes of, 1887, 2 vols.
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 Ontario, Statutes of, 1898-1908.
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 vol. 16.
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 Prince Edward Island, Statutes of, 1867-1872.
 Prince Edward Island, Statutes of, 1903-1906, 4 vols.
 Paine—The Law of Bailments.

- Parsons—Railway Companies and Passengers.
 Parsons—The Heart of the Railroad Problem.
 Prentice—Federal Powers over Carriers and Corporations.
 Patterson—Railway Accident Law.
 Piggott's Imperial Statutes, vols. 1 and 2 to 1903.
 Pollock—Bill of Lading Exceptions, 2nd Ed., 1895.
 Poor—Manual of Railroads, 1905-1908.
 Pratt—Railways and their Rates.
 Pratt and MacKenzie—Highways, 15th Ed., 1905.
 Quebec, Statuts de, 1866-1888.
 Quebec, Statuts refondue de la Province de, 1888, 2 vols.
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 Quebec, Statuts de, 1906-1908.
 Quebec, Statutes of, 1868-1887, vols. 1 to 21, incl.
 Quebec, Revised Statutes of the Province of, 1888, vols. 1 and 2.
 Quebec, Statutes of, 1888-1895, vols. 22 to 29, incl.
 Quebec, Statutes of, 1897-1908.
 Revised Statutes, Supplement, 1889.
 Russell's Equity, 1 vol.
 Report of the Board of Railroad Commissioners (Mass.), 1871, 1872, 1873, 1874, 1875.
 Report of the Railroad Commissioners of Mississippi, 1903.
 Report of the R.R. & W. Commissioners of Missouri, 1904-5.
 Report of the Board of Railroad Commissioners for New Jersey, 1907.
 Report of the New York Railroad Commissioners, 1902, 2 vols; 1905, 2 vols.; 1906 3 vols.
 Report of the Railroad Commission of Texas, 1905, 1907.
 Report of the State Corporation Commission of Virginia, 1905, 2 vols.; 1906, 2 vols.; 1907.
 Report of Railroad Commission of the State of Wisconsin, 1906.
 Report of the Department of Railways and Canals, 1902, 1903, 1905.
 Railways in the United States. 2 vols., 1902.
 Ramsay & Morin, Reports.
 Rapalje's Digest of American Decisions and Reports, 3 vols.
 Robinson & Joseph's Digest, 2 vols.
 Rapalje & Mack's Digest of Railway Law, 8 vols.
 Ray—Negligence of Imposed Duties, Freight Carriers.
 Ray—Negligence of Imposed Duties, Passenger Carriers.
 Redfield—The Law of Railways, vols. 1 and 2, 6th Ed., 1888.
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 Reese on Ultra Vires.
 Richards and Soper—Compensation.
 Robertson—Tramways (3rd Ed. of Sutton's Tramway Acts of the United Kingdom), 1903.
 Roscoe's Nisi Prius, vols. 1 and 2, 17th Ed., 1900.
 Rover—Railroads, vols. 1 and 2.
 Russell—Arbitration, 9th Ed., 1906.
 Russell & Bayley—Indian Railways Act, 1890, 2nd Ed., 1903.
 Revised Statutes of British Columbia, 1897, 2 vols.
 Revised Statutes of Manitoba, 1891, 2 vols.
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 Supreme Court of Canada Reports, 39 vols.
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- Special Report of the Illinois R.R. & W. Commission, 1902-1906, 1 vol.
 Statistics of Railways in the United States in 1888 to 1906.
 Special Report Incorporate Relationships of Railways in the U.S. as of June 30, 1906. Interstate Commerce Commission.
 Sirey, Code Civil, 3 vols.
 Sourdat, vols. 1-and 2.
 Stevens' Digest N.B. Reports, 1 vol., 3rd Ed.
 Stephens' Quebec Digest, 4 vols.
 Stroud's Judicial Dictionary, 3 vols.
 Schouler—Bailments and Carriers, 3rd Ed., 1897.
 Scott—Law of Telegraphs.
 Scrutton—Charter parties and Bills of Lading, 1904, 5th Ed.
 Seton on Decrees, vols. 1, 2 and 3, 6th Ed., 1901.
 Snyder—Annotated Interstate Commerce Act and Federal Anti-Trust Laws.
 Stephens—Digest of Railway Cases.
 Streets—Foundations of Legal Liability, vols. 1, 2 and 3.
 Sutherland on Damages, vols. 1, 2, 3 and 4, 3rd Ed., 1903.
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 Sutherland—Damages, vols. 1, 2, 3 and 4, 3rd Ed., 1903.
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 Statutes (Revised) of Canada, 1886, 2 vols.
 Statutes of Canada, 1887-1907.
 Statutes (Revised) of Canada, 1906, 4 vols.
 Statuts Révisés du Canada, 1886, 2 vols.
 Statuts du Canada, 1887-1907.
 Statuts Révisés, 1906, 3 vols.
 Statutes of British Columbia, 1872-1877.
 Statutes of British Columbia, 1878-1897.
 Statutes of British Columbia, 1898-1908.
 Statutes of Manitoba, 1871-1891.
 Statutes of Manitoba, 1892-1901.
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